

Extra Ordinary Part– V / 1991

Extra No.	Date	Department
Extra No.1	18-01-1991	Gujarat Legislature Secretariat
Extra No.2	23-01-1991	Gujarat Legislature Secretariat
Extra No.3	07-02-1991	Gujarat Legislature Secretariat
Extra No.4	11-02-1991	Gujarat Legislature Secretariat
Extra No.5	13-02-1991	Gujarat Legislature Secretariat
Extra No.6	13-02-1991	Gujarat Legislature Secretariat
Extra No.7	13-02-1991	Gujarat Legislature Secretariat
Extra No.8	13-02-1991	Gujarat Legislature Secretariat
Extra No.9	14-02-1991	Gujarat Legislature Secretariat
Extra No.10	14-02-1991	Gujarat Legislature Secretariat
Extra No.11	14-02-1991	Gujarat Legislature Secretariat
Extra No.12	14-02-1991	Gujarat Legislature Secretariat
Extra No.13	14-02-1991	Gujarat Legislature Secretariat
Extra No.14	14-02-1991	Gujarat Legislature Secretariat
Extra No.15	14-02-1991	Gujarat Legislature Secretariat
Extra No.16	14-02-1991	Gujarat Legislature Secretariat
Extra No.17	14-02-1991	Gujarat Legislature Secretariat
Extra No.18	14-02-1991	Gujarat Legislature Secretariat
Extra No.19	19-02-1991	Gujarat Legislature Secretariat
Extra No.20	25-02-1991	Gujarat Legislature Secretariat
Extra No.21	05-03-1991	Gujarat Legislature Secretariat
Extra No.22	14-03-1991	Gujarat Legislature Secretariat
Extra No.23	15-03-1991	Gujarat Legislature Secretariat
Extra No.24	18-03-1991	Gujarat Legislature Secretariat

Extra No.	Date	Department
Extra No.25	21-03-1991	Gujarat Legislature Secretariat
Extra No.26	21-03-1991	Gujarat Legislature Secretariat
Extra No.27	21-03-1991	Gujarat Legislature Secretariat
Extra No.28	22-03-1991	Gujarat Legislature Secretariat
Extra No.29	22-03-1991	Gujarat Legislature Secretariat
Extra No.30	22-03-1991	Gujarat Legislature Secretariat
Extra No.31	26-03-1991	Gujarat Legislature Secretariat
Extra No.32	14-08-1991	Gujarat Legislature Secretariat
Extra No.33	14-08-1991	Gujarat Legislature Secretariat
Extra No.34	14-08-1991	Gujarat Legislature Secretariat
Extra No.35	17-08-1991	Gujarat Legislature Secretariat
Extra No.36	19-08-1991	Gujarat Legislature Secretariat
Extra No.37	23-08-1991	Gujarat Legislature Secretariat
Extra No.38	04-09-1991	Gujarat Legislature Secretariat
Extra No.39	05-09-1991	Gujarat Legislature Secretariat
Extra No.40	06-09-1991	Gujarat Legislature Secretariat



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] FRIDAY, JANUARY 18, 1991/PAUSA 28, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE BOMBAY MOTOR VEHICLES (TAXATION OF PASSENGERS)
 (GUJARAT AMENDMENT) BILL, 1991.**

GUJARAT BILL NO. 1 OF 1991.

A BILL

further to amend the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Motor Vehicles (Taxation of Passengers) (Gujarat Amendment) Act, 1991.
- (2) It shall be deemed to have come into force on the 1st November, 1990.

Short
title
and
commence-
ment.

1-1

V-Extra-I-1

Amendment
of section
3 of Bom.
LXVII of
1958.

2. In the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (1), for the words "twenty five per cent", the words "seventeen and one-half per cent." shall be substituted.

Bom.
LXVII
of
1958.

Repeal
and
savings.

3. (1) The Bombay Motor Vehicles (Taxation of Passengers) (Gujarat Amendment) Ordinance, 1990 is hereby repealed.

Guj.
Ord.
8 of
1990.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

In order to provide relief to passengers carried by stage carriages and also to improve viability of operations of the Gujarat State Road Transport Corporation as stage carriage operator, it was considered necessary to reduce the existing rate of tax on the passengers carried by stage carriages under section 3 of the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 from twenty five per cent to seventeen and one-half per cent. with retrospective effect i.e. from the 1st November, 1990.

As the Gujarat Legislative Assembly was not in session, the Bombay Motor Vehicles (Taxation of Passengers) (Gujarat Amendment) Ordinance, 1990 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 15th January, 1991.

RAMSINH PARMAR

By order and in the name of the Governor of Gujarat,

R. M. MEHTA.

Secretary to the Government of Gujarat.
Legal Department.

Gandhinagar, dated the 18th January, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, JANUARY 23, 1991/MAGHA 3, 1912

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

THE GUJARAT LEGISLATIVE ASSEMBLY (SPEAKER AND DEPUTY SPEAKER) SALARIES AND ALLOWANCES (AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 2 OF 1991.

A BILL

further to amend the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act, 1960.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances (Amendment) Act, 1991.

Short
title
and
commence-
ment.

(2) It shall be deemed to have come into force on the 24th December, 1990.

Amendment of section 10 of Guj. III of 1960. 2. In the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act, 1960 (hereinafter referred to as "the principal Act"), in section 10, for the letters and figures "Rs. 600", the letters and figures "Rs. 1800" shall be substituted.

Deletion of section 11 of Guj. III of 1960.

3. In the principal Act, section 11 shall be deleted.

Amendment of section 12 of Guj. III of 1960.

4. In the principal Act, in section 12,—

(1) the words and figures "subject to the provisions of section 11" shall be deleted;

(2) for the marginal note, the following marginal note shall be substituted, namely :—

"Travelling and Daily Allowances to Deputy Speaker."

Amendment of section 12A of Guj. III of 1960.

5. In the principal Act, in section 12A,—

(1) in sub-section (1), for the portion beginning with the words "where he ordinarily resides" and ending with the words "as his residence", the words "or residence at Gandhinagar" shall be substituted;

(2) in sub-section (2), the proviso shall be deleted.

Insertion of new sections 12B, 12C, 12D, 12E, 12F and 12G in Guj. III of 1960.

6. In the principal Act, after section 12A, the following sections shall be inserted, namely :—

Residence of Deputy Speaker.

"12B. (1) The Deputy Speaker shall be entitled, without payment of rent, to the use of a furnished residence in Gandhinagar throughout his term of office and for a period of fifteen days immediately thereafter or in lieu of such residence a house allowance at the rate of Rs. 250/- per month.

(2) No charge shall fall on the Deputy Speaker personally in respect of the maintenance of any residence provided under this section.

(3). The expenditure on furnishing the residence provided under this section shall be on such scale as may be determined by rules or orders.

Conveyance for Deputy Speaker.

12C. (1) The State Government may, from time to time, for the use of the Deputy Speaker purchase and provide a motor car and other suitable conveyance, upon such conditions as regards their maintenance and repairs as may be determined by rules or orders.

(2) Where, under sub-section (1), the State Government has provided for the use of the Deputy Speaker a motor car or other conveyance it shall also provide to him, free of charge, the services of a driver for such car or conveyance.

(3) There shall also be paid to the Deputy Speaker a conveyance allowance at the rate of Rs. 500/- per month.

12D. Subject to any rules or orders made in this behalf by the State Government,—

(a) the Deputy Speaker shall be entitled to travelling allowance for himself and the members of his family and for the transport of his and his family's effects in respect of the journey to Gandhinagar from his usual place of residence outside Gandhinagar for assuming office;

(b) the Deputy Speaker and members of his family shall be entitled to travelling allowance for himself or themselves and for the transport of effects of the Deputy Speaker or, as the case may be, his family in respect of the journey from Gandhinagar to his usual place of residence outside Gandhinagar on the Deputy Speaker ceasing to hold his office.

Explanation.—For the purposes of this section, the expression “a member of the family” shall have the same meaning as assigned to it in section 7 and the word “family” shall be construed accordingly.

12E. Subject to rules or orders, the Deputy Speaker and the members of the family of the Deputy Speaker, who are residing with and dependent on him, shall be entitled, free of charge, to accommodation in hospitals maintained by the State Government and to medical attendance and treatment.

Explanation.—For the purposes of this section, the expression “a member of the family” shall have the same meaning as assigned to it in section 7 and the word “family” shall be construed accordingly.

12F. The Deputy Speaker shall not practise any profession or engage in any trade or undertake for remuneration any employment other than his duties as Deputy Speaker.

12G. Notwithstanding anything contained in any law for the time being in force determining the salaries and allowances of the members of the Assembly, the Deputy Speaker shall not be entitled to receive any salary or allowances under such law, although such Deputy Speaker is a member of the Assembly.”

7. (1) The Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances (Amendment) Ordinance, 1990 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Guj.
Ord.
5 of
1990.

Travelling allowance on assumption of office by Deputy Speaker and on ceasing to be Deputy Speaker.

Medical attendance,

Deputy Speaker not to practise any profession or engage in any trade.

Deputy Speaker not entitled to salary and allowances as member of the State Legislature.

Repeal and savings.

STATEMENT OF OBJECTS AND REASONS

In view of the dignity of the office of Deputy Speaker in a democratic set-up, it was considered necessary to extend more facilities to the Deputy Speaker such as increase in salary, free furnished residence, conveyance, driver and conveyance allowance, travelling and daily allowance for travelling on public business and medical attendance for self and members of family. It was, therefore, considered necessary to amend sections 10, 12 and 12A and delete section 11 of, and insert new sections 12B, 12C, 12D, 12E, 12F and 12G in, the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act, 1960.

As the Gujarat Legislative Assembly was not in session, the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Ordinance, 1990 was promulgated to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain the important provisions of the Bill:—

Clause 2.—This clause proposes to amend section 10 with a view to increasing the salary of the Deputy Speaker from Rs. 600 to Rs. 1800 per month.

Clause 3.—This clause proposes to delete section 11.

Clause 4.—This clause provides for incidental amendments in section 12.

Clause 5.—This clause proposes to amend section 12A in order to provide a telephone to the Deputy Speaker at his residence at Gandhinagar.

Clause 6.—This clause proposes to insert new sections 12B, 12C, 12D, 12E, 12F and 12G which provide as under :—

(1) New section 12B proposes to provide a furnished residence without payment of rent in Gandhinagar to the Deputy Speaker, or in lieu of such residence a house allowance at the rate of 250/- per month.

(2) New section 12C proposes to provide a motor car and other suitable conveyance and conveyance allowance to the Deputy Speaker at the rate of Rs. 500/- per month.

(3) New section 12D provides for travelling allowance to the Deputy Speaker on assumption of office and on ceasing to be Deputy Speaker.

(4) New section 12E provides for free medical attendance to the Deputy Speaker and the members of family of the Deputy Speaker who are residing with and dependent on him.

(5) New section 12F provides that the Deputy Speaker shall not practice any profession or engage in the trade or undertake for remuneration any employment other than his duties as Deputy Speaker.

(6) New section 12G provides that the Deputy Speaker shall not be entitled to receive any salary or allowance as a member of the Assembly.

DINSHA PATEL.

FINANCIAL MEMORANDUM

Clause 3 of the Bill proposes to amend section 10 to provide for increase in the salary of the Deputy Speaker from Rs. 600/- per month to Rs. 1800/- per month. Clause 6 of the Bill which proposes to insert new sections 12B, 12C, 12D and 12E seeks to provide for free furnished residence in Gandhinagar, a motor car, services of a driver and conveyance allowance at the rate of Rs. 500/- per month, traveling allowance to the Deputy Speaker and medical attendance to the Deputy Speaker and members of his family. These provisions, if enacted and brought into operation, would involve an estimated annual expenditure of about Rs. 3,74,900/- from the Consolidated Fund of the State out of which about Rs. 70,800/- would be of a recurring nature and about Rs. 3,04,100/- would be of a non-recurring nature.

DINSHA PATEL

MEMORADUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects :—

Clause 6.—This clause seeks to insert, among others, new sections 12B, 12C, 12D and 12E.

(1) Sub-section (3) of new section 12B empowers the State Government to determine by rules or orders the expenditure on furnishing the residence to be provided to the Deputy Speaker.

V-Extra-2-2

(2) Sub-section (1) of section 12C empowers the State Government to determine by rules or orders conditions as regards maintenance and repairs of a motor car and other suitable conveyance to be provided for the use of the Deputy Speaker.

(3) New section 12D empowers the State Government to make rules or orders subject to which the Deputy Speaker and the members of his family shall be entitled to travelling allowance for the transport of effects of the Deputy Speaker and the members of his family on assumption of office of the Deputy Speaker and on ceasing to be the Deputy Speaker.

(4) New section 12E empowers the State Government to make rules or orders subject to which the Deputy Speaker and the members of his family shall be entitled to free medical attendance, etc., in hospitals maintained by the State Government.

2. The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 21st January, 1991.

DINASHA PATEL.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 23rd January, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, FEBRUARY 7, 1991/MAGHA 18, 1912

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the
proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES
CONTROL (GUJARAT AMENDMENT) BILL, 1991.**

GUJARAT BILL NO. 3 OF 1991.

A BILL

*further to amend the Bombay Rents, Hotel and Lodging House Rates Control
Act, 1947.*

It is hereby enacted in the Forty-second Year of the Republic of India as
follows :—

1. This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Act, 1991. Short title.

Amend-
ment of
section 3
of Bom.
LVII of
1947.

2. In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947. Bom.
in section 3, in sub-section (2), for the words, figures and letters "the 31st day LVII
of March, 1991", the words, figures and letters "the 31st day of March, 2001" of
shall be substituted. 1947.

STATEMENT OF OBJECTS AND REASONS

The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 *inter alia* prohibits landlords from increasing the rents above the maximum permitted under the Act, confers security of tenure on the tenants and permits landlords to recover possession only on certain specified grounds. This Act expires on the 31st of March, 1991. As the problem of housing in the State of Gujarat continues to be acute, it is considered necessary to extend the duration of the Act for a further period of ten years, i.e. upto the 31st March, 2001. This Bill seeks to achieve the aforeaid object.

DINSHA PATEL

FINANCIAL MEMORANDUM

Part III of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 envisages the appointment of Controller for any area for the purpose of that part. Collectors of the districts have been appointed as Controllers and this arrangement is to be continued. In view of this, the extension of the duration of the Act by this Bill is not likely to have any financial impact.

Dated the 7th February, 1991.

DINSHA PATEL

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,

Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 7th February, 1991.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXII] MONDAY, FEBRUARY 11, 1991/MAGHA 22, 1912

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given
under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE BOMBAY PUBLIC TRUSTS (GUJARAT AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 4 OF 1991.

A BILL

further to amend the Bombay Public Trusts Act, 1950.

It is hereby enacted in the Forty-second Year of the Republic of India
as follows:—

1. This Act may be called the Bombay Public Trusts (Gujarat Amendment) Short title,
Act, 1991.

2. In the Bombay Public Trusts Act, 1950 (hereinafter referred to as
“the principal Act”), in section 2, for clause (1), the following clause shall
be substituted, namely:—

“(1) “Additional Charity Commissioner” means the Additional Charity
Commissioner appointed under section 3AA;”

Amend-
ment
of section 2
of Bom.
XXIX of
1950.

Bom.
XXIX
of
1950.

Insertion of
new section -
3AA in
Bom. XXIX
of 1950.

3. In the principal Act, after section 3, the following section shall be inserted, namely:—

Additional
Charity
Commissioner.

“3AA. The State Government may, by notification in the *Official Gazette*, appoint an officer to be called the Additional Charity Commissioner who shall, subject to such general or special order as the State Government may pass, exercise all or any of the powers and perform all or any of the duties and functions, of the Charity Commissioner.”

Amendment
of section 4
of Bom.
XXIX of
1950.

4. In the principal Act, in section 4,—

(1) for the words “a Joint Charity Commissioner”, the words “an Additional Charity Commissioner” shall be substituted;

(2) in the marginal note, for the word “Joint”, the word “Additional” shall be substituted.

Insertion
of new
section 4A
in Bom.
XXIX of
1950

5. In the principal Act, after section 4, the following section shall be inserted, namely:—

Qualifications
for appoint-
ment of
Joint
Charity
Commissioner.

“4A. A person to be appointed as a Joint Charity Commissioner shall be one—

(a) who is holding or has held a judicial office not lower in rank than that of an Assistant Judge; or

(b) who has held the office of a Deputy Charity Commissioner for not less than five years.”

Amendment
of section 5
of Bom.
XXIX of
1950.

6. In the principal Act, in section 5,—

(1) in sub-section (2), after clause (b), the following shall be inserted, namely:—

(c) who has held the office of an Assistant Charity Commissioner for not less than five years.”;

(2) in sub-section (2A), after clause (b), the following shall be inserted, namely:—

(c) (i) who is working in the Charity Organisation, and holds a degree in law and who has put in five years of service in the Charity Organisation, or

(ii) who is member of the staff working as Legal Assistant in the Legal Branches of the Legal Department of the State Government and who has put in five years of service as Legal Assistant.”

7. In the principal Act, in section 6, in the proviso, after the words "Charity Commissioner", the words "the Additional Charity Commissioner" shall be inserted.

A amendment of section 6 of Bom. XXIX of 1950.

8. In the principal Act, in section 6A, after the words "Charity Commissioner", the words "Additional Charity Commissioner", shall be inserted.

Amendment of section 6A of Bom. XXIX of 1950.

9. In the principal Act, in section 6B, after the words "Charity Commissioner", the words "Additional Charity Commissioner" shall be inserted.

Amendment of section 6B of Bom. XXIX of 1950.

10. In the principal Act, section 7 shall be deleted.

Deletion of section 7 of Bom. XXIX of 1950.

11. In the principal Act, in section 35, in sub-section (I), in the second proviso, the words "after obtaining the prior approval of the State Government" shall be added at the end.

Amendment of section 35 of Bom. XXIX of 1950.

12. In the principal Act, after section 56Q, the following section shall be inserted, namely :—

Insertion of new section 56QQ in Bom. XXIX of 1950.

"56QQ. (1) For each managing committee there shall be constituted a fund to be called the "Management Fund" which shall vest in, and be under the control of, the Committee.

Management Fund.

(2) There shall be placed to the credit of the Management Fund of every managing committee —

(a) the total balance (whether in cash, securities or in any other form) standing to the credit of any endowment held by the State Government immediately before such endowment or the management thereof was transferred to, and vested in, the members of the Committee under section 56C or 56D;

(b) a sum not exceeding ten per cent. of the gross annual income of each endowment transferred to, or placed under the management of, the committee as the committee may, with approval of the State Government, fix in this behalf. In fixing such sum regard shall be had to the gross annual income of the endowment, the average annual expenditure incurred to give effect to the objects and purposes for which the endowment is founded, created, intended or is being administered, the liability, if any, to which the endowment is subject and any other factors which the State Government may either generally or specially specify in the case of any endowment or class of endowments :

Provided that the State Government may, by rules, provide for exemption for any endowment or class of endowments from the whole sum or any part of such sum;

(c) the fees charged for inspection of proceedings of the committee and for copies of records maintained by the committee;

(d) any other sum which the State Government may by order specify in this behalf.

(3) The Management Fund of a managing committee shall, subject to the provisions of this Act and subject to any general or special order of the State Government, be applied to—

(i) the payment of honoraria, fees and allowances of the Chairman, treasurer and other members of the committee;

(ii) the payments of salaries, allowances and other sums payable to the Secretary and other officers and servants of the committee;

(iii) the payment of any expenses lawfully incurred by the committee in the exercise of its powers and in the performance of its duties and functions as provided by section 56N.

(4) The custody and investment of the moneys credited to the Management Fund and the disbursement and payment therefrom and the credit of accounts of the said Fund shall be regulated in the prescribed manner.”.

Deletion of
Chapter IX
of Bom.
XXIX of
1950.

13. In the principal Act, Chapter IX shall be deleted.

Amendment
of section 68
of Bom.
XXIX of
1950.

14. In the principal Act, in section 68, clause (f) shall be deleted.

Amendment
of section 69
of Bom.
XXIX of
1950.

15. In the principal Act, in section 69, clause (o) shall be deleted.

Amendment
of section 78
of Bom.
XXIX of
1950.

16. In the principal Act, in section 78,—

(1) for the words “Deputy and”, the words “the Additional Charity Commissioner, Joint, Deputy and” shall be substituted;

(2) the words “and Assessors” shall be deleted.

Amendment
of section 84
of Bom.
XXIX of
1950.

17. In the principal Act, in section 84, in sub-section (2), after clause (04), the following clauses shall be inserted, namely :—

“(05) the rules to provide for exemption for any endowment or class of endowments from the whole or any part of the sum referred to in clause (b) of sub-section (2) of section 56QQ, under the proviso to the said clause (b);

(06) the manner in which the custody and investment of the moneys credited to the Management Fund, the disbursement and payment therefrom and audit of accounts of the said Fund shall be regulated under sub-section (4) of section 56QQ.”.

STATEMENT OF OBJECTS AND REASONS

With a view to making the working of the Charity Organisation, the public trusts and the Government managed trusts more effective and removing certain infirmities found as a result of the experience gained in the implementation of the Bombay Public Trusts Act, 1950, it is considered necessary to amend the said Act.

The following notes on clauses explain the important provisions of the Bill :—

Clause 3.— This clause provides for insertion of new section 3AA in the Act for creation of the office of Additional Charity Commissioner with a view to making the working of the Charity Organisation more effective.

Clause 4.— This clause seeks to amend section 4 of the Act to provide for qualifications for appointment to the post of an Additional Charity Commissioner.

Clause 5.— This clause seeks to insert new section 4A in the Act to provide for the qualifications for appointment to the post of Joint Charity Commissioner.

Clause 6.— This clause seeks to amend section 5 of the Act to provide for the qualifications for appointment to the posts of Deputy Charity Commissioner and Assistant Charity Commissioner.

Clause 10.— This clause provides for deletion of section 7 of the Act which relates to assessors.

Clause 11.— This clause seeks to amend the second proviso to sub-section (1) of section 35 of the Act to impose restriction on the power of the Charity Commissioner to permit investments of trust money, by providing that prior approval of the State Government will be necessary.

Clause 12.— This clause provides for insertion of new section 56QQ in the Act for the creation of Management Fund for the administration of the endowment managed trusts and District Committees to be appointed under the provisions of the Act and for the manner of investment and custody of the money credited to the said Management Fund.

SHASHIKANT LAKHANI.

FINANCIAL MEMORANDUM

New section 3AA proposed to be inserted by clause 3 of the Bill would involve expenditure from the Consolidated Fund of the State.

Under the proposed new provision a post of Additional Charity Commissioner in the pay scale of Rs. 4100-5300 alongwith attached establishment of one personal assistant in the pay scale of Rs. 2000-3500 and one post of Nayak in the scale of Rs. 775-1025 will be created which will involve approximate additional annual recurring expenditure of Rs. 1,60,000/-

The aforesaid expenditure is initially to come out of the Consolidated Fund of the State but afterwards the Charity Organisation has to reimburse the State Government.

SHASHIKANT LAKHANI.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects :—

Clause 12.—(1) The proviso to clause (b) of sub-section (2) of the new section 56QQ proposed to be inserted by this clause empowers the State Government to make rules to provide for exemption for any endowment or class of endowments from the whole or any part of the sum referred to in the said clause (b).

(2) Clause (d) of sub-section (2) of the new section 56QQ proposed to be inserted empowers the State Government by an order to specify any other sum which shall be placed to the credit of the Management Fund of every managing committee.

(3) Sub-section (3) of the new section 56QQ proposed to be inserted empowers the State Government to make a general or special order subject to which the Management Fund of a managing committee shall be applied to the matters specified in clauses (i), (ii), (iii) of the said sub-section (3).

(4) Sub-section (4) of new section 56QQ proposed to be inserted empowers the State Government to prescribe by rules the manner in which, the custody and investment of the moneys credited to the Management Fund, the disbursement and payment therefrom and audit of accounts of the said fund shall be regulated.

The delegation of the legislative powers as aforesaid is necessary and is of a normal character.

Dated the 11th February, 1991.

SHASHIKANT LAKHANI,

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,

Secretary to the Government of Gujarat,

Gandhinagar, dated the 11th February, 1991.

Legal Department.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, FEBRUARY 13, 1991/MAGHA 24, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 13th February, 1991 by Dr. Karsandas Soneri, Minister for Education, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"THE BHAVNAGAR UNIVERSITY (AMENDMENT) BILL, 1991.

Gujarat Bill No. 5 of 1991.

A BILL

further to amend the Bhavnagar University Act, 1978.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Bhavnagar University (Amendment) Act, 1991. Short title.

Guj. 26 of 1978.

2. In the Bhavnagar University Act, 1978 (hereinafter referred to as "the principal Act"), in section 2, in clause (3), for the words "leading to a degree", the words "leading to a diploma or degree" shall be substituted.

Amendment of section 2 of Guj. 26 of 1978.

Amendment
of section
10 of Guj.
26 of 1978.

3. In the principal Act, in section 10, in sub-section (6), after the words "in absence of the Pro-Vice-Chancellor", the words "one of the Deans or" shall be inserted.

Amendment
of section
20 of Guj.
26 of 1978.

4. In the principal Act, in section 20, in sub-section (I),—

(1) after clause (vi), the following clause shall be inserted, namely:—

"(vii) two principals of colleges to be nominated by the Vice-Chancellor by rotaion, in the manner specified by the Statutes";

(2) in the proviso,—

(a) for the brackets and figure "(vi)", the brackets and figure "(vii)" shall be substituted;

(b) for the words "or, as the case may be, a Head of the recognised institutions", the words, "a Head of the recognised institution or, as the case may be, a Principal of a College" shall be substituted.

Amendment
of section
30 of Guj.
26 of 1978.

5. In the principal Act, in section 30, in clause (v), for the words "specialised studies", the words "specialised studies, Post-graduate centres in affiliated colleges" shall be substituted.

Substitution
of section
43 of Guj.
26 of 1978.

6. In the principal Act, for section 43, the following section shall be substituted, namely:—

Post-
graduate
instruction,
teaching and
training.

"43. Within the University area all post-graduate instruction, teaching and training in such subjects as may be prescribed by the Statutes shall be conducted by the University or subject to control of the University by such affiliated colleges or institutions as may be prescribed by the Statutes."

STATEMENT OF OBJECTS AND REASONS

As a college teaching courses leading to a diploma does not come within the definition of the term "college" given in clause (3) of section 2 of the Bhavnagar University Act, 1978, such a college cannot apply for affiliation to the University. In order to enable such college to obtain affiliation, it is considered necessary to amend the said definition.

2. In order to enable the Chancellor to nominate, in the absence of the Pro-Vice-Chancellor, one of the Deans to carry out the current duties of the vacant office of the Vice-Chancellor, until an appointment of the Vice-Chancellor is made, it is considered necessary to amend sub-section (6) of section 10.

3. With a view to enabling the Vice-Chancellor to nominate two Principals of colleges in the Academic Council, it is considered necessary to amend subsection (1) of section 20.

4. It is also considered necessary to amend clause (v) of section 30 so as to take power to provide by Statutes for institution and maintenance by the University of post-graduate centres in affiliated colleges.

5. The requirement of conducting by the University all post-graduate instruction, teaching and training within the University area at its head-quarters under section 43 creates hardship to the students residing at places far away from the head-quarter. In order to obviate such hardship, it is considered necessary to enable the affiliated colleges or institutions also to conduct the post-graduate instruction, teaching and training in prescribed subjects, subject to the control of the University and in accordance with the Statutes.

6. This Bill seeks to amend the said Act to achieve the aforesaid objects.

KARSANDAS SONERI.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects:—

Clause 3.—Sub-section (6) of section 10 as sought to be amended by this clause empowers the Chancellor to nominate one of the Deans to perform, in the absence of the Pro-Vice-Chancellor, the current duties of the office of the Vice-Chancellor during leave or absence of the Vice-Chancellor or in the event of a permanent vacancy in the office of the Vice-Chancellor until the appointment is made.

Clause 4.—Clause (vi) as sought to be inserted in sub-section (1) of section 20 by this clause empowers the Vice Chancellor to nominate two Principals of colleges by rotation in the manner specified by the Statutes.

Clause 6.—Section 43 as sought to be substituted by this clause empowers the Executive Council to prescribe by Statutes subjects in which, and affiliated colleges or institutions by which, all post-graduate instruction, teaching and training within the University area shall be conducted by the University.

2. The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 30th January, 1991.

KARSANDAS SONERI,"

Gandhinagar,
Dated the 13th February, 1991.

P. N. THAKKER,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, FEBRUARY 13, 1991/MAGHA 24, 1912

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 13th February, 1991 by Shri Dalsukhbhai Godhani, Minister for Revenue, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 6 OF 1991.

A BILL

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :-

1. (1) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 1991.

(2) It shall be deemed to have come into force on the 1st May, 1984.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in section 32A, in sub-section (3), for the words "which shall not be less than such difference and not more than twice the amount of such difference", the words "of two hundred and fifty rupees" shall be substituted.

Short
title
and
commence-
ment.

Amend-
ment of
section
32A of
Bom. LX
1958.

Bom. LX
of
1958.

Amend-
ment of
section
32B of
Bom. LX of
1958.

3. In the principal Act, in section 32B, in sub-section (I), for the words "seventy five per cent." "the words "twenty-five per cent" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Under sub-section (3) of section 32A of the Bombay Stamp Act, 1958 the party liable to pay the duty is *inter alia* required to pay a penalty which shall not be less than the amount of the difference between the amount of duty determined and the amount of duty already paid by the party and not more than twice the amount of such difference. This penal provision causes undue hardship to the party. It is, therefore, considered necessary to amend sub-section (3) of the said section 32A to provide for payment of a fixed penalty of two hundred and fifty rupees only. This would help the clearance of a large number of instruments pending before the Collectors of the districts for the recovery of duty under the said section 32A.

2. Any person aggrieved by an order of the Collector under section 31 or 32A is required, under section 32B, to deposit with the Collector seventy five per cent of the amount of duty or, as the case may be, the amount of the difference of duty payable by him along with the application for drawing up a statement of the case for reference to the Chief Controlling Revenue Authority. With a view to giving relief to such a person, it is also considered necessary to amend sub-section (I) of the said section 32B to provide for deposit of twenty-five per cent. of the amount of duty or as the case may be, of the amount of difference of duty payable by him.

3. This Bill seeks to amend the said Act with retrospective effect to achieve the aforesaid objects.

DALSUKHBHAI GODHANI,

FINANCIAL MEMORANDUM

Sub-section (3) of section 32A propose to be amended by clause 2 of this Bill envisages payment of a penalty of a fixed sum of two hundred and fifty rupees in place of the existing penalty which shall not be less than the difference between the amount of duty determined and the amount of duty already paid by the party and not more than twice the amount of such difference, with retrospective effect from 1-5-1984. The provision of the said clause if enacted and brought into operation, is estimated to involve non-recurring expenditure of approximately rupees seventy-five lakhs from the Consolidated Fund of the State.

Dated the 31st January, 1991.

DALSUKHBHAI GODHANI,"

Gandhinagar,
Dated the 13th February, 1991.

P. N. THAKKER,
Secretary,
Gujarat Legislative Assembly.



Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, FEBRUARY 13, 1991/MAGHA 24, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 13th February, 1991 by Shri Dalsukhbhai Godhani, Minister for Revenue, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"THE GUJARAT PROHIBITION OF TRANSFER OF IMMOVABLE PROPERTY AND PROVISION FOR PROTECTION OF TENANTS FROM EVICTION FROM PREMISES IN DISTURBED AREAS BILL, 1991.

Gujarat Bill No. 7 of 1991.

A BILL

to declare certain transfers of immovable property in disturbed areas of the State to be void and to prohibit temporarily transfers of immovable property in such areas and to further amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 for providing protection to tenants of certain immovable properties in such areas from eviction.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991.

Short title.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “disturbed area” means an area declared as disturbed area under section 3;

(b) “fair value” in relation to immovable property in disturbed areas means such value of the property as approximate the market value of such property;

(c) “prescribed” means prescribed by rules made under section 12.

Declaration of disturbed area.

3. (1) Where the State Government, having regard to the intensity and duration of riot or violence of mob and such other factors in any area of the State is of opinion that public order in that area was disturbed for a substantial period by reason of riot or violence of mob, it may, by notification in the *Official Gazette*,—

(a) declare such area to be a disturbed area;

(b) specify the substantial period (hereinafter referred to as “the specified period”).

Explanation.—In this section the word “riot” shall have the same meaning as in section 146 of the Indian Penal Code,

XLV of 1860.

(2) Where the State Government is of opinion that public order in the area declared as disturbed area under sub-section (1) has ceased to be disturbed, it may by notification in the *Official Gazette* rescind the notification issued under sub-section (1) in relation to such area and on such rescission the provisions of this Act shall cease to apply to such area except as respects things done or omitted to be done under this Act and except as respects the application of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 to such area, as amended by this Act.

Bom. LVII of 1947.

Certain transfers of immovable property to be void.

4. (1) Notwithstanding anything contained in any other law for the time being in force but subject to sub-sections (2) and (3) all transfers of immovable property situated in a disturbed area made during the specified period shall be null and void, with effect from the date of such transfer.

(2) (a) Any transferor or transferee in relation to a transfer of immovable property affected by the provisions of sub-section (1) may, within the prescribed period and in the prescribed form, make an application to the Collector for a declaration that the transfer of immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property so transferred.

(b) On receipt of such application, the Collector shall hold a formal inquiry in the manner prescribed by the Bombay Land Revenue Code, 1879 and after giving an opportunity to the transferor and the transferee to be heard and after considering any evidence produced, decide whether the transfer of immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property and accordingly —

Bom. V of 1879.

(i) reject the application; or

(ii) by an order in writing make a declaration that the transfer of the immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property so transferred.

(3) Upon a declaration made under sub-clause (ii) of clause (b) of sub-section (2) in respect of any transfer of immovable property, such transfer of immovable property shall, with effect from the date of such transfer, be deemed to be valid for the purposes of this Act.

Explanation.—For the purposes of this section and section 5, the word “transfer” in relation to an immovable property means a transfer by way of sale, gift, exchange, lease or otherwise and includes allowing the possession of such property to be taken or retained in part performance of contract of the nature referred to in section 53A of the Transfer of Property Act, 1882.

of 1882:

5. (1) Notwithstanding anything contained in any other law for the time being in force but subject to provisions of sub-section (3), no immovable property situated in a disturbed area shall, during the period of subsistence of the notification issued under sub-section (1) of section 3 declaring such area to be the disturbed area, be transferred except with the previous sanction of the Collector.

Prohibition of transfer of immovable property in disturbed area.

(2) Any transfer of immovable property made in contravention of sub-section (1) shall be null and void.

(3) (a) Any person intending to transfer immovable property situated in a disturbed area may, within the prescribed period and in the prescribed form, make an application to the Collector for obtaining previous sanction under sub-section (1).

Bom V of 1879.

(b) On receipt of such application the Collector shall hold a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after giving an opportunity to the applicant to be heard and after considering any evidence produced, decide whether the transfer of immovable property is proposed to be made by free consent of the persons intending to be the transferor and the transferee and for a fair value of the immovable property proposed to be transferred and accordingly —

(i) reject the application; or

(ii) by an order in writing give previous sanction to the proposed transfer of immovable property.

6. Any person aggrieved by the decision of the Collector rejecting an application under sub-clause (i) of clause (b) of sub-section (2) of section 4 or under sub-clause (i) of clause (b) of sub-section (3) of section 5 may file an appeal before the State Government in such manner, within such time, and on payment of such fees, as may be prescribed.

Appeals.

Proceedings to be judicial proceedings.

7. All inquiries and proceedings before the Collector and the State Government under this Act, shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

**XLV^o
1860.**

Finality of decision of Collector and State Government.

8. The decision of the Collector under section 4 or 5, subject to an appeal to the State Government under section 6 and the decision of the State Government on the appeal, shall be final and conclusive and shall not be questioned in any Court.

Sections 4 and 5 not to apply to certain transfers of immovable property.

9. The provisions of sections 4 and 5 shall not apply to any transfer by way of mortgage of any immovable property situated in a disturbed area in favour of a financial institution for the purpose of obtaining financial assistance from such institution.

Explanation.—For the purposes of this section “financial institution” means—

(a) a Corporation as defined in clause (b) of section 2 of the Gujarat Public Monies (Recovery of Dues) Act, 1979.

**Guj. 17 of
1979.**

(b) a Bank as defined in clause (c) of that section.

Protection of action taken under this Act.

10. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or purported to be done under this Act.

Delegation of powers.

11. The State Government may, by notification in the *Official Gazette*, delegate any of the powers of the Collector under section 4 or 5 to any officer of the Government not below the rank of a Deputy Collector.

Power to make rules.

12. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may be made to provide for all or any of the following matters, namely:—

(a) the period within which and the form in which, an application may be made under clause (a) of the sub-section (2) of section 4 ;

(b) the period within which, and the form in which, an application may be made under clause (a) of sub-section (3) of section 5 ;

(c) the manner in which, the time within which and fees on payment of which, an appeal may be filed under section 6 ;

(d) any other matter which is to be, or may be, prescribed by rules, made under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made

and shall be subject to rescission by the State Legislature, or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Bom. LVII
of 1947.

13. In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, (hereinafter referred to as "the principal Act"), after section 11, the following new section shall be inserted, namely :-

Insertion of
new section
11A in
Bom. LVII of
1947.

"11A. Where by reason of any riot or violence of mob any material part of the premises in a disturbed area is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let,-

Right of
tenants
in new
building in
disturbed
areas.

(a) the landlord shall erect the new building at the original site subject to the provisions of any rules, bye-laws or regulations made by a local authority not later than fifteen months from the date of the publication of the notification in the *Official Gazette*, issued under sub-section (1) of section 3 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991 or the date on which the material part of premises of the building is wholly destroyed or rendered substantially and permanently unfit, whichever is later :

Guj.
of 1991.

Provided that the State Government may for sufficient reasons extend the period of fifteen months to such further period not exceeding nine months as it thinks fit,

(b) the tenant shall have the right to occupy a tenement in the new building erected at the original site by the landlord, and

the provisions of sections 17B and 17C shall, so far as may be, apply.

Guj.
of 1991.

Explanation.--In this section and in sub-section (1A) of section 12, the expression "disturbed area" shall have the same meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991."

14. In the principal Act, in section 12, after sub-section (1), the following sub-section shall be inserted, namely :-

Amendment
of section
12 of Bom.
LVII of 1947.

"(1A) Where by reason of any riot or violence of mob any material part of the premises in a disturbed area is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let, the landlord shall not be entitled to --

(a) the standard rent and permitted increases due for the premises,

(b) recover possession of such premises merely on the ground of non-payment of standard rent and permitted increases due,

during the period in which such premises remain so destroyed or unfit."

Insertion of
new section
17D in Bom.
LVII of 1947.

Vesting of
original site
in State Govern-
ment.

15. In the principal Act, after section 17C, the following new section shall be inserted, namely :—

“17D. (1) Where a landlord fails to erect a new building within the period specified in clause (a) of section 11A, the original site, irrespective of whether the premises thereon referred to in section 11A exist or not, shall vest in the State Government free from all encumbrances for the purpose of erection of new building to provide accommodation to tenants and there shall be paid to the landlord such compensation for such site as may, subject to such rules as may be made in this behalf under section 49, by an order, be determined by the Collector.

(2) An appeal shall lie to the State Government from an order made by the Collector under sub-section (1) determining the amount of compensation to be paid to the landlord, within thirty days from the date of communication of the order and the State Government may pass such order as it deems fit.”.

Amendment
of section
49 of Bom.
LVII of
1947.

16. In the principal Act, in section 49, in sub-section (2),—

(1) after clause (ai), the following clause shall be inserted, namely:—

“(aai) the rules subject to which compensation may be determined by the Collector under sub-section (1) of section 17D;”.

(2) for clause (v), the following clause shall be substituted, namely:—

“(v) levy of court-fees in suits, appeals, proceedings and applications instituted or made before the State Government, Court, Controller or Collector.”.

Repeal.

17. The Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1986 is hereby repealed.

Guj. 20
of 1986.

STATEMENT OF OBJECTS AND REASONS

The object underlying the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1986 was to provide protection both to the landlords as well as tenants. On account of the disturbances in an area there is a tendency amongst landlords belonging to one community to sell off their immovable properties to members of other communities at throw away prices out of fear of losing life and property. In order to prevent such sales it was provided in the Act to ensure that the sale of immovable property was as a result of free consent of the parties to the transaction and for a fair value thereof. Protection was provided to tenants by amending the Bombay Rents, Hotels and Lodging House Rates Control Act, 1947. Provision was made requiring the landlord to erect a new building at the original site where by reason of any riot or violence of mob the premise was wholly destroyed or rendered substantially and permanently unfit for use and conferring a right on the tenant to occupy the newly erected building at the original site. Further in such cases the right of the landlord to the standard rent and permitted increases for the premises which were rendered substantially and permanently unfit for use or to recover possession of such premises merely on the ground of non-payment of standard rent and permitted increases, was taken away. Again if the landlord failed to erect a new building at the original site, power was taken to the Government to acquire the same for the purpose of erection of new building to provide accommodation to the tenants. The said Act sought to prohibit transfer of immovable properties in areas of the State disturbed by reason of riot or violence of mob during the years 1985 and 1986 only. i. e. from 18th March, 1985 to 29th October, 1986. Hence, the said Act is spent. The said Act did not provide for power to the State Government to prohibit such transfers as and when any area is disturbed by reason of riot or violence of mob. It is, therefore, considered necessary to re-enact the said Act with required modifications so as to have such powers to the State Government under a permanent law by recourse to which it could, as and when occasion arises, declare disturbed areas and prohibit transfer of immovable property in such areas and for such periods as it may deem fit, having regard to the intensity and duration of riot or mob violence. This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain important provisions of the Bill:—

Clause 3.—This clause empowers the State Government to declare by notification in the *Official Gazette* any area in which public order is disturbed by reason of riot or violence of mob, to be the disturbed area having regard to the intensity and duration of riot or violence of mob. Moreover, it also empowers the State Government to rescind the notification declaring an area to be a disturbed area.

Clause 4.—This clause seeks to make null and void all transfers of immovable property situate in a disturbed area made during the specified period. Provision is also made for declaring transfers of immovable property made by free consent of the transferor and the transferee and for a fair value thereof as valid.

Clause 5.—This clause prohibits transfers of immovable property in disturbed area, during the period of subsistence of notification issued under sub-clause (1) of clause 3 in relation to the disturbed area except with the previous sanction of the Collector. Provision is also made for permitting transfers of immovable property in such area by free consent and for a fair value thereof.

Clause 6.—This clause provides for an appeal to the State Government by a person aggrieved by the decision of the Collector rejecting his application under sub-paragraph (i) of paragraph (b) of sub-clause (2) of clause 4 or under sub-paragraph (i) of paragraph (b) of sub-clause (3) of clause 5.

Clause 9.—This clause exempts any transfer by way of mortgage of immovable property situate in a disturbed area in favour of a financial institution for the purpose of obtaining financial assistance from such institution, from the provisions of clauses 4 and 5.

Clause 12.—This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2) of this clause.

Clause 13.—This clause seeks to insert new section 11A in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (herein after referred to as the Bombay Act) with a view to requiring a landlord to erect a new building at the original site in a disturbed area and conferring right on a tenant in such new building.

Clause 14.—This clause seeks to amend section 12 of the Bombay Act with a view to giving protection to a tenant from eviction from the premises in a disturbed area which is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let, merely on the ground of non-payment of standard rent and permitted increases during the period in which such premises remained so destroyed or unfit.

Clause 15.—This clause seeks to insert new section 17 D in the Bombay Act with a view to taking power to the State Government to acquire the original site if the landlord fails to erect a new building within the period specified in clause (a) of section 11 A and payment to the landlord of such compensation for such acquisition of such site as may, subject to rules to be made by the Government, be determined by the Collector.

Clause 17.—The Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1986 is repealed by this clause.

DALSUKHBHAI GODHANI,

FINANCIAL MEMORANDUM

Sub-section (1) of section 17D proposed to be inserted in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 by clause 15 of the Bill which if enacted and brought into operation would involve expenditure from the Consolidated Fund of the State. The said sub-section (1) provides for payment of such compensation to the landlord in respect of the site vested in the State Government under that sub-section as may, subject to rules made by the Government in that behalf be determined by the Collector. The number and area of sites which may vest in the State Government and the amount of compensation that may be determined by the Collector in respect of each such site under that sub-section cannot be anticipated. In the circumstances, it is not possible to give an estimate of an amount of compensation which would be required to be paid from the Consolidated Fund of the State under the aforesaid sub-section.

DALSUKHBHAI GODHANI,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects:-

Clause 3.-Sub-clause (1) of this clause empowers the State Government to declare by a notification in the *Official Gazette*, any area in which by reason of riot or violence of mob during a specified period public order was disturbed, to be a disturbed area. Sub-clause (2) of this clause empowers the State Government to rescind the notification issued under sub-clause (1) where it is of opinion that the disturbed area has ceased to be such area.

Clause 4.-Paragraph (a) of sub-clause (2) of this clause empowers the State Government to prescribe by rules the period within which and the form in which an application may be made to the Collector under that paragraph.

Clause 5.-Paragraph (a) of sub-clause (3) of this clause empowers the State Government to prescribe by rules the period within which and the form in which an application may be made to the Collector under that paragraph.

Clause 6.-This clause empowers the State Government to prescribe by rules the manner in which, time within which and fees on payment of which an appeal may be filed to the State Government under that clause.

V—Extra—7-3

Clause 11—This clause empowers the State Government to delegate by notification in the *Official Gazette* any of the powers of the Collector under section 4 or 5 to any officer of the Government not below the rank of a Deputy Collector.

Clause 12.—Sub-clause (1) of this clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for the matters specified in sub-clause (2).

Clause 15.—Sub-section (1) of new section 17 D proposed to be inserted in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, by this clause, empowers the State Government to make rules subject to which compensation payable to the landlord would be determined by the Collector.

Clause 16.—This clause seeks to amend sub-section (2) of section 49 of the Bombay Act with a view to empowering the State Government,—

(i) to make rules subject to which compensation payable to the landlord would be determined by the Collector ;

(ii) to provide for levy of court-fees in appeals before the State Government and application before the Collector besides in suits, proceedings and applications before the court or controller.

2. The delegation of legislative powers as proposed is necessary and is of a normal character.

Dated the 31st January, 1991.

DALSUKHBHAI GODHANI,"

Gandhinagar,

Dated the 13th February, 1991.

P. N. THAKKER,

Secretary,

Gujarat Legislative Assembly.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXIII] WEDNESDAY, FEBRUARY 13, 1991/MAGHA 24, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 13th February, 1991 by Shri Chhabildas Mehta, Minister for Finance, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"THE INDIAN PARTNERSHIP (GUJARAT AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 8 OF 1991.

A BILL

further to amend the Indian Partnership Act, 1932 in its application to the State of Gujarat.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. This Act may be called the Indian Partnership (Gujarat Amendment) Act, 1991. Short title.

9 of
1932.

2. In the Indian Partnership Act, 1932, in its application to the State of Gujarat, for Schedule I, the following Schedule shall be substituted, namely :—

Substitu-
tion of
Schedule
I to 9 of
1932.

"SCHEDULE—I

MAXIMUM FEES

(See sub-section (1) of section 71)

Document or act in respect of which the fee is payable.	Maximum fee.
Statement under section 58	Fifty rupees.
Statement under section 60	Twenty-five rupees.
Intimation under section 61	Twenty-five rupees.
Intimation under section 62	Twenty-five rupees.
Notice under section 63	Twenty-five rupees.
Application under section 64	Twenty-five rupees.
Inspection of the Register of Firms under sub-section (1) of section 66	Ten rupees for inspecting one volume of the Register.
Inspection of documents relating to a firm under sub-section (2) of section 66	Ten rupees for the inspection of all documents relating to one firm.
Copies from the Register of Firms	Five rupees for each hundred words or part thereof."

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 71 of the Indian Partnership Act, 1932, in its application to the State of Gujarat, empowers the State Government to prescribe by rules the fees which shall accompany documents sent to the Registrar of Firms, or which shall be payable for inspection of documents in the custody of the Registrar of Firms, or for copies from the Register of Firms. According to the proviso to sub-section (1) of the said section 71, such fees shall not exceed the maximum fees specified in Schedule I to the Act. Since the enactment of the Act in 1932, the maximum fees specified in the said Schedule I have not been enhanced, although the administrative expenses and stationery charges have progressively increased. It is, therefore, proposed to increase the maximum fees specified in the said Schedule I to meet with such growing expenses. This Bill seeks to achieve the aforesaid object.

Dated the 31st January, 1991.

CHHABILDAS MEHTA."

Gandhinagar,

Dated the 13th February, 1991.

P. N. THAKKER,

Secretary,

Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, FEBRUARY 14, 1991/MAGHA 25, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 13th February, 1991 by Shri Dinsha Patel, Minister for Parliamentary Affairs, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

“THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS (REMOVAL OF DISQUALIFICATIONS) (AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 9 OF 1991.

A BILL

further to amend the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Act, 1991.

Short
title.

Guj.
I of
1960.

2. In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960, in the Schedule,—

Amendment
of Schedule
to Guj. I
of 1960.

(1) in entry 14, for the word “member”, the word “Director” shall be substituted;

(2) after entry 25, the following entries shall be added, namely:—

“26. The office of Chairman of the Gujarat State Road Transport Corporation established under the Road Transport Corporations Act, 1950.

64
of
1950.

27. The office of Chairman or Director of the Gujarat Dairy Development Corporation Limited.

28. The office of Chairman or Director of the Gujarat State Handloom Development Corporation Limited.

29. The office of Chairman or Director of the Gujarat State Export Corporation Limited.”

STATEMENT OF OBJECTS AND REASONS

Some of the Boards and Corporations or Limited Companies formed by the State Government require able heads experienced in the fields of trade, commerce, industry, finance, management or public life to man them efficiently. This is particularly so with regard to those bodies which deal directly with the public and social activities. Sometimes, some Members of the Gujarat Legislative Assembly are found suitable for the purpose but on account of the provision of disqualification in clause (1) of article 191 of the Constitution a doubt arises whether acceptance of the post of a Chairman, member or Director of such a body by a Member of the Gujarat Legislative Assembly would disqualify him on the ground of holding an office of profit under the Government. It is, therefore, considered necessary to remove the disqualification that might be incurred by such Member on being appointed as Chairman or Director of such a body by adding entries 26, 27, 28 and 29 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

Entry 26 was previously added to the said Schedule by the Gujarat Legislative Assembly Members (Removal of Disqualifications) Ordinance, 1990 which ceased to operate by virtue of the provision of sub-clause (a) of clause (2) of article 213 of the Constitution. Amendment in entry 14 is consequential to the amendment of the Gujarat Industrial Development Act, 1962 by the Gujarat Industrial Development (Amendment) Act, 1986.

This Bill seeks to amend the said Schedule to achieve the aforesaid object.

Dated the 8th February, 1991.

DINSHA PATEL.”

Gandhinagar,

Dated the 13th February, 1991.

P. N. THAKKER,
Secretary,

Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, FEBRUARY 14, 1991/MAGHA 25, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

P A R T V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th February 1991 by Shri Ishvarsinh Chavada M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"Gujarat Bill No. 10 of 1991.

THE GUJARAT AGRICULTURAL LABOURERS INQUIRY BILL, 1990.

A BILL

to provide for the constitution of a Committee for the purpose of investigating economic and social conditions of the agricultural labourers in the State of Gujarat and for the matters connected therewith.

It is hereby enacted in the Forty-First Year of the Republic of India, as follows :—

1. (1) This Act may be called the Gujarat Agricultural Labourers Inquiry Act, 1990.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

Short
title
extent
and com-
mencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "agricultural labourer" means a labourer whose main source of income and livelihood is by working in the agriculture;

(b) "Committee" means the Gujarat Agricultural Labourers Inquiry Committee appointed under section 3.

Appointment of Gujarat Agricultural Labourers Inquiry Committee.

3. Every three years the State Government shall appoint a committee to be called the Gujarat Agricultural Labourers Inquiry Committee to investigate the economic and social conditions of the agricultural labourers with a view to have scientific data for measures to be taken for their alround upliftment.

Composition of Committee.

4. The Committee shall consist of the following eleven members, namely :—

(i) Two members from amongst the Members of Parliament;

(ii) Three members from amongst the Members of the Gujarat Legislative Assembly;

(iii) Two members from the State Government officials;

(iv) Four members from amongst the representatives of the agricultural labourers or their registered Union.

Inquiry.

5. For the purposes of this Act; the Committee shall tour all the districts in the State and shall complete the inquiry within three months from it's appointment.

Power of Committee.

6. The Committee shall have power to call any person as a witness and to record the evidence.

Report of Committee.

7. The report of the Committee shall be laid before the State Legislature in the next session after it is made and the findings and recommendations of the Committee shall form the data for alround welfare measures for the upliftment of the agricultural labourers in the State.

Power to make rules.

8. The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Many decades before, the Government of India had appointed such Inquiry Committees. One was during the British days and the other was in the post independence days. The Reports of this Committee brought out many astonishing facts, regarding the pathetic condition of the Agricultural Labourers in the country. These Reports proved of very great help to the Government for taking welfare measures and if such Reports are found in Gujarat, they will be of very great help to our State Government in taking proper, timely and scientific measures for the upliftment of the Agricultural Labourers which are the poorest of the poor. Hence, Reports should become a regular feature because for a long time no authentic data on the economic condition of the Agricultural Labourers is available.

Dated the 13th July, 1990.

(Signed) ISHVARSINH CHAVDA,
M.L.A.

FINANCIAL MEMORANDUM

The appointment of the Agricultural Labourers Inquiry Committee and its functioning will involve an annual expenditure of Rs. 5 lacs from the Consolidated Fund of the State.

Dated the 13th July, 1990.

(Signed) ISHVARSINH CHAVDA,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the State Government to appoint the Gujarat Agricultural Labourers Inquiry Committee.

Clause 8 of the Bill empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of the legislative powers as aforesaid is necessary and is of a normal character.

Dated the 13th July, 1990.

(Signed) ISHVARSINH CHAVDA,
M.L.A."

Gandhinagar.

Dated the 14th February, 1991.

P. N. THAKKER,
Secretary,

Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, FEBRUARY 14, 1991/MAGHA 25, 1912

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th February 1991 by Shri Ishvarsinh Chavada M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"Gujarat Bill No. 11 of 1991.

**THE GUJARAT DISTRICT COMMITTEES FOR IMPLEMENTATION OF
 POLICIES AND PROGRAMMES OF STATE GOVERNMENT BILL, 1990.**

A BILL

The provide for constitution of district committees for implementation of policies and programmes of the State Government and for matters connected therewith.

It is hereby enacted in the Forty-first year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat District Committees for Implementation of Policies and Programmes of State Government Act, 1990.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

11-1

V—Extra—11-1

Short
title
extent
and
commencement

Definition 2. In this Act, unless the context otherwise requires,-

(i) "Authority" means the State Government, Municipal Corporation, Municipality, Panchayat or any of its office bearers.

(ii) "Committee" means the District Committee constituted under section 3

(iii) The terms "Local Authority" includes Municipal Corporation, Municipality or Panchayat in the district.

(iv) "prescribed" means prescribed by rules made by the State Government.

**District
Committee**

3. (1) The State Government shall constitute for each district of the State a District Committee.

(2) The Committee shall consist of members nominated by the State Government and *ex-Officio* members as follows:-

Nominated Members.

(i) Two members from the agriculturists of the district.

(ii) Two members from the agricultural labourers of the district

(iii) Two members from the owners of small scale industries of the district.

(iv) Two members from other industries of the district

(v) Four members from the industrial labourers.

(vi) Two members from the persons running cottage industries in the district.

(vii) Two representatives of the traders of the district

(viii) Four members from the weaker sections of the district.

(ix) Two representatives of Co-operative societies in the district.

(x) An officer of the Gujarat Electricity Board.

(xi) Executive Engineer.

Ex-Officio Members.

(i) M. L. A.s. of the district.

(ii) President of the district panchayat.

(iii) District Superintendent of police.

(iv) Mayor of Municipal Corporation and President of Municipalities from the District.

(v) District Industries Officer.

(vi) Collector.

(vii) District Development Officer.

(viii) District Education Officer.

(3) The Chairman shall be nominated by the State Government from amongst the members of the Gujarat Legislative Assembly representing the district.

(4) The President of the district panchayat shall be the *ex-officio* Vice-Chairman of the Committee.

4. (1) The Secretary and other staff to aid and advise the Committee shall be such as may be prescribed. Committee Staff

(2) The Secretary and other staff of the Committee shall be appointed by the Chairman in such manner as may be prescribed.

5. The functions of the Committee shall be—

Functions
of
Committee.

(i) to invite memoranda containing objections, suggestions, grievances etc. on matter of public importance concerning Government and local administration from the individuals, organisations and associations from the district;

Provided that the grievances of an individual shall not be entertained by the Committee unless it is of a serious nature involving harassment to a person either due to collusion or corruption on the part of the public servant,

(ii) to consider the memoranda received and recommend action to be taken by the authority concerned on the points raised in the memoranda,

(iii) to consider the points proposed by the members of the Committee and admitted by the Chairman and suggest action to be taken on these points by the Government or any other local authority,

(iv) to consider the action taken or view point expressed by the concerned authority on the recommendation of the Committee,

(v) to discharge such other functions as may be prescribed.

6. The Secretary appointed under section 4 shall be incharge of the administration of the Committee Secretariat and shall work as the Secretary to the Committee.

Secretary

7. The functions of the Secretary shall be—

(i) to prepare points and arrange them in such order as may be directed by the Chairman giving priority to the urgent and important matters for inclusion in the agenda,

Functions
of the
Secretary

(ii) to record decisions of the Committee and to send them to the authority concerned for taking necessary actions thereon.

Right of members to suggest points.

8. Any member of the Committee may suggest points for consideration the Committee containing any of the following matters:—

(i) suggesting measures for effective implementation of the policies and programmes of the Government local authorities.

(ii) suggesting ways and means of economy in expenditure by the Government and local authorities.

(iii) suggesting ways and means to reduce and redress grievances of the people of the district.

(iv) suggesting time limit for the disposal of applications made by the public to the various authorities Government and local authorities.

(v) suggesting methods of making the administration public oriented.

Meetings of Committee

9. (1) The Committee shall meet atleast thrice in a year and the period between any two meetings shall not be more than six months.

(2) The Committee shall discuss and deliberate on the points put up before it for consideration. The decision taken in the meeting shall be recorded by the Secretary.

Payment of allowances to Chairman and members of Committee.

10. For the performance of their duties under this Act the Chairman and the members of the Committee shall be entitled to payment of such compensatory allowances and at such rate as may be prescribed.

No disqualification in certain cases.

11. No person shall be disqualified for being chosen as or for being a member of the Legislative Assembly of the State by reason only of the fact that he is a Chairman or member of the Committee.

Power to make rules.

12. (1) The State Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

STATEMENT OF OBJECTS AND REASONS

At present the best policies and programmes of the State Government remain on paper because the bureaucracy who has to implement them has no interest or least interest in their implementation. Besides there is no effective control over bureaucracy. As such the benefits of policies and programmes of the Government do not reach to the people who are to be uplifted.

An aggrieved man or an applicant hardly gets any response from the administration which has become callous and irresponsible. Delaying tactics are employed by the public servants to lead corruption. There is no effective machinery in the State to help the common man in redressing their grievances.

The district co-ordinating committees and planning boards at the district level are presided over by the Collectors. Members of Parliament and the State Assembly are ordinary members. This situation is unbearable, unproductive and of no good to achieve any expected result.

In the above circumstances it appears that the representative as of the people should be actively associated with administration to help the poor and illiterate people in redressing their grievances.

This bill seeks to provide for a forum where the representatives of different sections of the society and officers incharge of the administration of State and local authorities can meet to discuss the problems of the people, can exchange their views and come to the conclusion as to how the problems could be solved effectively and speedily. The bill provides for constitution of District Committee consisting of representatives of different sections of the society in the district and officers incharge of public administration. It is proposed that such a committee should be headed by a member of the Legislative Assembly. The proposed committee is empowered to consider measures of economy in public expenditure and to suggest improvement in the administration.

The bill seeks to achieve the aforesaid objects.

Date the 13th July, 1990.

(Signed) ISHVARSINH CHAVDA.

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 3 (2) empowers the State Government to nominate the members on the district committee.

Clause 3 (3) empowers the State Government to nominate the chairman of the committee.

Clause 4 (1) empowers the State Government to prescribe the staff of the Committee.

Clause 4 (2) empowers the State Government to prescribe the manner in which the Secretary and other staff of the Committee shall be appointed.

Clause 5 (v) empowers the State Government to prescribe the functions of the Committee other than those mentioned in this clause.

Clause 10 empowers the State Government to prescribe the rate of compensatory allowance payable to the Chairman and members of the Committee.

Clause 12 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of Legislative powers as aforesaid is necessary and is of normal character.

Dated the 13th July, 1990.

(Signed) ISHVARSINH CHAVDA,
M. L. A.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the Committee. Clause 4 of the Bill provides for appointment of the secretary and other staff of the Committee. Clause 10 of the Bill provides for payment of compensatory allowances to the Chairman and members of the Committee. These provisions would involve expenditure from the Consolidated Fund of the State. But it is difficult to give an extra amount of expenditure. It is however estimated that a recurring expenditure Rs. 10 lacs would be required from the Consolidated Fund of the State every year.

Dated the 13th July, 1990.

(Signed) ISHVARSINH CHAVDA,
M.L.A."

Gandhinagar.

Dated the 14th February, 1991.

P. N. THAKKER,

Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, FEBRUARY 14, 1991/MAGHA 25, 1912

Separate paging is given to this Part in order that it may be filed as a
 separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 14th February, 1991 by
 Shri Ishvarsinh Chavada, M.L.A. is published under rule 127-A of the Gujarat
 Legislative Assembly Rules for general information.

"Gujarat Bill No. 12 of 1991."

**THE GUJARAT PROHIBITION OF ACCEPTING DONATIONS FOR
 ADMISSION TO EDUCATIONAL INSTITUTIONS BILL, 1990.**

A BILL

*to provide for prohibition of accepting donations or premium for giving
 admission to students in any educational institution in the State.*

WHEREAS it is expedient to provide for prohibition of accepting donations
 or premium for giving admission to students in educational institutions in
 the State ; It is hereby enacted in the forty first year of the Republic of
 India as follows :—

1. (1) This Act may be called the Gujarat Prohibition of Accepting Dona-
 tions for Admission to Educational Institutions Act, 1990.

Short
 title,
 extent
 commence-
 ment.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Prohibition of accepting donations for granting admission to Educational institutions.

2. (1) No person shall without the permission of the State Government, either by himself or through any other person accept any donation or premium or interest free loan or any amount in cash or kind by way of consideration for granting admission to students to any class, standard or any course in any educational institution recognised by any local body or the State Government or any University in the State.

(2) Contravention of the provision contained in sub-section (1) shall constitute a cognizable and non-compoundable offence and the person concerned shall, on conviction, be punishable with imprisonment for not less than 3 years and with fine which shall not be less than the amount of donation or premium and in the case of a gift in kind, the value thereof.

STATEMENT OF OBJECTS AND REASONS

There is a growing tendency in the Educational institutions in the State to demand donation or premium in the nature of capitation fee or interest free loan for giving admission to students in such institutions. The capitation fee that is demanded now-a-days for admission ranges from Rs. 1000 for admission to schools to Rs. 50,000 or more for admission to Engineering and Medical Colleges. As a result of this poor students whose parents are incapable of paying such exorbitant capitation fee are unable to get admission to the institutions even though they are otherwise eligible on merit to get admission. It is, therefore, considered necessary to prohibit acceptance of such capitation fee and to make such acceptance a cognizable and non-compoundable offence.

The Bill seeks to achieve the above object.

Dated the 13th July, 1990.

(Signed) ISHVAR SINH CHAVDA,
M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of Legislative power :—

Clause 1(3).—This clause provides that the Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

The above proposal is of a normal character.

Dated the 13th July, 1990.

(Signed) ISHVAR SINH CHAVDA,
M. L. A.

P. N. THAKKER,
Secretary,

Gandhinagar.

Dated the 14th February, 1991.

Gujarat Legislative Assembly.



Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, FEBRUARY 14, 1991/MAGHA 25, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 14th February, 1991 by Shri Virajibhai Munia, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"Gujarat Bill No. 13 of 1991.

THE GUJARAT RESERVATION OF VACANCIES IN POSTS AND SERVICES (FOR SCHEDULED CASTES AND SCHEDULED TRIBES) BILL, 1990.

A BILL

to provide for adequate representation of Scheduled Castes and Scheduled Tribes in posts and services under the State.

It is hereby enacted in the Forty first year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Reservation of Vacancies in Short Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1990. titel, extent and commen- cement.
- (2) It shall extend to the whole of the State of Gujarat.
- (3) It shall come into force from such date as the State Government may, by notification in the *Official Gazette*, appoint.

**Defini-
tions.**

2. In this Act, unless the context otherwise requires,—

- (a) "prescribed" means prescribed by rules made under this Act;
- (b) "recruitment year" means the financial year during which a recruitment is actually made;
- (c) "reservation" means reservation of vacancies in post and services for the Scheduled Castes and Scheduled Tribes;
- (d) "Scheduled Castes" shall have reference to the Scheduled Castes specified in the Constitution (Scheduled Castes) Order, 1950 made under Article-341 of the Constitution of India and as amended from time to time;
- (e) "Scheduled Tribes" shall have reference to the Scheduled Tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made under Article-342 of the Constitution of India and as amended from time to time;
- (f) "select list" means the list of candidates arranged in order of precedence prepared according to the rules and orders issued by the State Government in that behalf and adopted by the competent authority for making appointment in respect of initial recruitment and promotions;
- (g) "State" includes the Government and the Legislature of the State of Gujarat and all local or other authorities within the State or under the control of the State Government.

**Applica-
bility.**

3. This Act shall apply to,—

- (1) all appointments to the posts and services under the State except,—
 - (a) those meant for conducting or guiding or directing research;
 - (b) those classified as scientific posts;
 - (c) those filled up on the basis of any contract;
 - (d) ex-cadre posts;
 - (e) those which are filled up by transfer or deputation;
 - (f) such other posts as the State Government may, from time to time, by order specify :

Provided that all orders made under class (f) shall, as soon as after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions.

- (2) all appointments to the district level posts.
- (3) all appointments in the Panchayats, Boards and Corporation constituted by the State Government,
- (4) all appointments in institutions aided by the State Government,

(5) all appointments in private sector companies, registered under the Act of either State or Central Government in the State employing twenty or more persons,

(6) all other appointment which the State Government may specify from time to time.

4. (1) Except as otherwise provided in this Act, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled up by candidates not belonging to the Scheduled Castes and Scheduled Tribes.

Reserva-
tion and the
percen-
tage
there of.

(2) The reservation of vacancies in posts and services shall be at such percentage of the total number of vacancies as the State Government may, from time to time by order determine :

Provided that—

(a) in the case of initial recruitment the percentage so determined shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of the State.

(b) in the case of initial recruitment the district level posts, the percentage so determined shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of that district and in no case be less than the percentage of persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of the State.

(c) save as otherwise provided in this Act, in the case of appointments by way of promotions the percentage of reservation shall be such as is laid down in paragraphs (a) and (b).

Explanation.—The expression “population” means the population as ascertained at the last census for which the relevant figures have been published.

5. (1) The State Government shall prescribe model roster indicating the number of vacancies to be reserved for the Scheduled Castes and Scheduled Tribes and the number of vacancies to be left unreserved.

Model
Roster.

(2) The appointing authorities shall maintain roster in the prescribed form.

(3) The roster shall be consulted for ascertaining the number of reserved vacancies only but the appointment shall be made in accordance with the order of precedence as shown in the select list.

6. If, in any recruitment year, the number of candidates either from Scheduled Castes or Scheduled Tribes is less than the number of vacancies reserved for them the remaining vacancies may be filled up by general candidates after deservng the vacancies in the prescribed manner, but the vacancies so deserved shall be carried forward to the subsequent three years of recruitment.

Carry for-
ward of
reserva-
tion an
dereer-
vation.

Relaxa-
tion and
conces-
sions.

7. For initial appointments for the candidates belonging to Scheduled Castes and Scheduled Tribes.

(a) the upper age-limit prescribed for recruitment shall be relaxed by five years.

(b) fee prescribed for application for any post shall be one fourth of what it is for others.

(c) travelling allowance to attend competitive written examination and oral interview shall be paid at such rates as may be prescribed by the State Government.

(d) percentage of passing the competitive and departmental examinations shall be relaxed by 5 percent.

Manner of
initial
recruit-
ment.

8. (1) For recruitment through employment exchange the number of vacancies reserved for Scheduled Castes and Scheduled Tribes shall be specified in the requisition to be sent to the employment exchange against the total number of vacancies.

(2) For recruitment to be made through the Gujarat Public Service Commission or any Selection Board on the basis of competitive examination or interview the advertisement shall specify the number of vacancies reserved for Scheduled Castes and Scheduled Tribes against the total number of vacancies.

(3) The Scheduled Castes and Scheduled Tribes candidates shall be recruited to the extent of the reserved vacancies if they possess the minimum qualifications required for the posts of services.

(4) If the required number of Scheduled Castes and Scheduled Tribes candidates are not available for filling up the reserved vacancies, a fresh recruitment shall be made only from candidates belonging to the Scheduled Castes or Scheduled Tribes, as the case may be, for filling up the remaining reserved vacancies.

(5) If after making such fresh recruitment candidates belonging to the Scheduled Castes or Scheduled Tribes are still not available or of the number of such candidates is less than number of reserved vacancies, the vacancies which remains unfilled shall be filled up by general candidates in accordance with the procedure laid down in Section 6.

(6) For district level posts if the candidates belonging to Scheduled Castes or Scheduled Tribes, as the case may be, are not available in the district employment exchange in sufficient number at the time of initial recruitment, the employment exchanges of other districts where there is large population of Scheduled Castes or Scheduled Tribes, as the case may be, shall be consulted.

9. (1) Where promotion is to be made on the basis of seniority subject to fitness, the Scheduled Castes and Scheduled Tribes officers shall be promoted to the next higher post or grade against reserved vacancies provided they possess the minimum qualifications and experience required for such promotion.

Promotion
seniority
cum
fitness.

(2) The number of reserved vacancies shall be determined on the basis of the reserved posts shown in the roster maintained under Section 5.

10. Where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent, the procedure for filling up of the reserved vacancies shall be such as may be prescribed and the number of reserved vacancies shall be determined on the basis of the reserved points shown in the roster maintained number under section-5.

Promotion
based on
selection.

11. Where selection is to be made from different services the recruiting or appointing authority shall select Scheduled Castes and Scheduled Tribes candidates to the extent of reserved quota, provided such candidates satisfy the minimum conditions of suitability, qualification and experience laid down in respect of the post concerned.

Selection
from
different
services.

12. (1) Every appointing authority shall furnish to the State Government annual report in the prescribed manner by the end of the month of June of the succeeding financial year and maintain such other records as may be prescribed.

Submi-
ssion of
Annual
Report.
Main-
tainance
of other
records
and
inspection
thereof.

(2) Any officer authorised by the State Government in that behalf may inspect any record or documents and require the appointing authority to produce the roster and other records relating to appointments made by it and which are maintained in its office.

(3) It shall be the duty of the appointing authority to produce such records and documents, furnish such information and afford all such assistance and facilities as may be necessary for the aforesaid purpose.

13. In cash department of the State Government an officer not below the rank of an Under Secretary authorised by the Secretary of the department in that behalf shall act as Liaison Officer in respect of the matters provided in this Act who shall be specially responsible for,—

Nomina-
tion of
Liaison
Officer.

(a) ensuring proper implementation of the provisions of this Act and the rules made thereunder,

(b) ensuring compliance by the subordinate authorities,

(c) ensuring timely submission of returns,

(d) conducting annual inspections of rosters and such other record as may be prescribed,

(e) acting as Liaison Officer between the administrative department and the Social Welfare Department.

(f) ensuring necessary assistance to the Social Welfare Department in the investigation of complaints received from individuals or organisation belonging to Scheduled Castes and Scheduled Tribes.

Constitu-
tion of
Standing
Committee.

14. (1) There shall be a Standing Committee consisting of the following members, namely—

(a) The Minister for Social Welfare-Chairman.

(b) Three members of the Gujarat Legislative Assembly to be elected in such manner as may be determined by the Speaker of the Gujarat Legislative Assembly-Members.

(c) The Chief Secretary to Government-Member.

(d) The Secretary to Government, Home Department-Member.

(e) The Secretary to Government, Social Welfare Department-Member

Provided that on issue of a proclamation under Article 356 of the Constitution of India the composition of the committee may be altered by the State Government to such extent as it may deem fit.

Functions
of the
standing
committee.

15. (1) The Committee shall meet at least thrice a year and the period between any two meetings shall not be more than six months.

(2) The Committee shall perform the following functions, namely:—

(i) review of the implementation of the provision of this Act and rules made thereunder,

(ii) suggest measures for the removal of difficulties in such implementation or for the improvement thereof, and

(iii) such other function as the State Government may from time to time, assign to the Committee.

Annual
Report.

16. The State Government shall prepare an annual report on the working of the Act and lay the same before the State Legislature for a period of not less than fifteen days in the Budget Session of the succeeding financial year.

Legal
aid.

17. Legal aid shall be made available by the State Government at the prescribed rates to the employees belonging to Scheduled Castes and Scheduled Tribes in cases of their grievances.

18. (1) The State Government may, by notification in the *Official Gazette* (after previous publication), make rules to carry out all or any of the purposes of this Act.

Rule
making
Power.

(2) In particular and without prejudice to the generality of the foregoing powers, they may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this Act shall, as soon as may be, after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions and if during the said period, the State Legislature makes any modifications therein, the rules shall thereafter have effect only in such modified form so however that such modifications shall be without prejudice to the validity of anything previously done under the rules.

19. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law or in any rule, order or resolution made by the State Government.

Over-
riding
effect of
the Act.

STATEMENT OF OBJECTS AND REASONS

According to Constitutional provisions, the State Government have made several administrative order for implementation of policy of reservation for Scheduled Castes and Scheduled Tribes. But due to lack of effective control the provisions of such administrative order could not be strictly implemented and the employees belonging to Scheduled Castes and Scheduled Tribes have to face injustice may a time. This Bill, therefore, provides for the effective implementation of the policy.

Dated the 24th July, 1990.

(Signed) VIRJIBHAI MUNIA,
M. L. A.

FINANCIAL MEMORANDUM

Clause 14 of the Bill requires the State Government to constitute standing committee and Clause 15 requires atleast three meetings to be held in a year. Clause 17 requires the State Government to make available legal aids to employees belonging to Scheduled Castes and Scheduled Tribes at the prescribed rates. It is estimated that the expenditure to be involved from the Consolidated Fund of the State in regard to above provisions would be about rupees two lakhs per annum.

Dated the 24th July, 1990.

(Signed) VIRJIBHAI MUNIA,
M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of Clause 1, empowers the State Government to appoint by notification in the *Official Gazette* the date on which the Act shall come into force.

Paragraph (f) of sub-clause (1) of clause 3 empowers the State Government to specify by order posts other than those specified in the sub-clause.

Sub-clause (3) of clause 3 empowers the State Government to specify from time to time appointments other than those specified in the preceding sub-clauses.

Sub-clause (2) of clause 4 empowers the State Government to determine the percentage of reservation of vacancies in posts and services.

Sub-clause (1) of clause 5 empowers the State Government to prescribe model roster.

Sub-clause (2) of Clause 5 empowers the State Government to prescribe from for maintaining roster.

Clause 6 empowers the State Government to prescribe manner for filling up reserved vacancies by general candidates in case the number of candidates from Scheduled Castes or Scheduled Tribes is less than the number of vacancies reserved for them.

Paragraph (c) of clause 7 empowers the State Government to prescribe rates of travelling allowance to be paid to the candidates belonging to the Scheduled Castes and Scheduled Tribes for attending competitive examination or oral interviews.

Clause 10 of the Bill empowers the State Government to prescribe procedure for filling up the reserved vacancies where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent.

Sub-clause (1) of clause 12 empowers the State Government to prescribe a manner for furnishing annual report to the State Government and to maintain other records.

Paragraph (d) of clause 13 empowers the State Government to prescribe other records the liaison Officer shall be responsible for conducting annual inspection.

Paragraph (b) of clause 14 empowers the Speaker of the Gujarat Legislative Assembly to determine manner for electing members of the Assembly on the Standing Committee.

The proviso to clause 14 empowers the State Government to alter the composition of the Standing Committee on issue of proclamation under Article 356 of the Constitution to such extent as it may deem fit.

Paragraph (iii) of sub-clause (2) clause 15 empowers the State Government to assign to the Standing Committee other functions from time to time.

Clause 17 of the Bill empowers the State Government to prescribe rates for making available legal aid to the employees belonging to the Scheduled Castes and Scheduled Tribes.

Sub-clause (1) of clause 18 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is essential and of normal character.

Dated : 2nd July, 1990.

(Signed) VIRJIBHAI MUNIA,
M.L.A.

Gandhinagar.

Dated the 14th February, 1991

P. N. THAKKER,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, FEBRUARY 14, 1991/MAGHA 25, 1912

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th February, 1991 by Shri Naresh Raval, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"Gujarat Bill No. 14 of 1991."

**THE GUJARAT LEGISLATIVE ASSEMBLY SECRETARIAT
(RECRUITMENT AND CONDITIONS OF SERVICE) BILL, 1990.**

A BILL

to regulate the recruitment and the conditions of service of persons appointed to the secretarial staff of the Gujarat Legislative Assembly and for matters connected therewith.

It is hereby enacted in the Forty First Year of the Republic of India as follows :

1. (1) This Act may be called the Gujarat Legislative Assembly Secretariat (Recruitment and Conditions of Service) Act, 1990.
- (2) It shall come into force at once.

Short title,
and
commence-
ment.]

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "officer" means a person appointed to, or borne on the cadre of, the secretarial staff of the Gujarat Legislative Assembly;

(b) "officer of Class I, Class II, Class III or Class IV" means an officer holding a post in Class I, Class II, Class III or Class IV, at the commencement of this Act.

(c) "post" means a post in the Secretariat;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Secretary" means the Secretary of the Gujarat Legislative Assembly;

(f) "Secretariat" means the Gujarat Legislature Secretariat ;

(g) "Speaker" means the Speaker of the Gujarat Legislative Assembly;
and

(h) "State Government" means the Government of Gujarat.

Separate and independent Secretariat.

3. (1) subject to the provisions of this Act, the Gujarat Legislative Assembly shall have a separate Secretariat, independent of the administrative and financial control of the State Government.

(2) The Gujarat Legislative Assembly Secretariat shall be under the Administrative and financial control of the Speaker.

Strength and composition of the Secretariat.

4. There shall be in the Secretariat :—

(a) such categories of posts and such number of posts in each category as exists at the commencement of this Act ; and

(b) such additional posts in the categories referred to in clause (a) and such additional categories and number of posts therein, as the Speaker may from time to time sanction;

Provided that no order sanctioning the creation of a post of Secretary, Additional Secretary or Joint Secretary in Class I shall be made except after consultation with the Chief Minister.

Method of recruitment.

5. (1) Recruitment to a post or class of posts may be made by any one of the following methods, namely :—

(a) by promotion from among the officers in the Secretariat;

(b) by transfer of a person or persons serving outside the Secretariat in connection with the affairs of the state of Gujarat or of any other State or of the Union ;

(c) by direct recruitment.

(2) The Speaker may, by rule, from time to time,—

(a) specify the method or methods by which a post or class of posts may be filled ;

(b) determine the proportion of vacancies to be filled by each method; and

(c) in case of recruitment by promotion, specify the class of officers who, and the conditions subject to which they, shall be eligible for such promotion.

6. The qualifications for recruitment to any post or class of post shall be such as may be prescribed.

Qualifi-
cations for
recruitment.

7. All appointments to the posts in the Secretariat shall be made by the Speaker :

Appointing
authority.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer, his power to make appointment to any post or class of posts specified in such order, being posts other than posts in Class I.

8. Every person appointed to a permanent post by direct recruitment, with a view to his eventual substantive appointment to that post, shall be on probation for a period of two years ;

Probation.

Provided that the Speaker or the Secretary or any other officer to whom power is delegated under, section 7, may, by order, extend or reduce the period of probation up to one year in the case of any person appointed by him or any officer subordinate to him to any post specified in such order.

9. (1) The Speaker may, after consultation with the Finance Department, or the General Administration Department as the case may be, make rules regarding the pay, pension and other conditions of service of the officers;

Pay and
other
conditions
of service.

Provided that the scale of pay, pension and other conditions of service of the officers shall not be lower than or inferior to those admissible or applicable, as the case may be, to the officers in corresponding posts in the Secretariat of the State Government.

(2) Until rules are made under sub-section (1) the pay, pension and other conditions of service of the officers shall continue to be governed by the rules or orders as in force at the commencement of this Act.

(3) In all matters regulating the conditions of service of the officers of the Secretariat for which no provision or insufficient provision has been made in the rules made under this Act, the officers shall be governed by such rules as are applicable to the officers in corresponding posts in the Secretariat of the State Government, subject to such modifications, variations or exceptions in such rules as the Speaker may, by order, from time to time specify.

Explanation.—For the purposes of this section if any question arises as to which post in the Secretariat of the State Government corresponds to which particulars post in the Secretariat, the decision of the Speaker shall be final.

Superintendence and disciplinary Control.

10. The officers shall be subject to the superintendence and disciplinary control of the Speaker ;

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer any of his powers in this regard.

Penalties.

11. The following penalties, may, for good and sufficient reasons, be imposed on an officer, namely:—

- (i) censure ;
- (ii) withholding of increments or promotion ;
- (iii) recovery from pay of the whole or part of any pecuniary loss caused to the State by negligence or breach of orders ;
- (iv) reduction to a lower grade or post or to a lower time-scale or to a lower stage in a time scale ;
- (v) compulsory retirement;
- (vi) removal from service in the Secretariat which shall not be disqualification for future employment under the Secretariat or the Government.
- (vii) dismissal from service in the Secretariat which shall ordinarily be a disqualification for future employment under the Secretariat or the Government.

Explanation.—The following shall not amount to a penalty within the meaning of this section :—

- (i) withholding of increments of an officer for failure to pass a departmental examination in accordance with the rules or orders governing the post or the terms of his appointment ;
- (ii) stoppage of an officer at the efficiency bar in the time-scale on the ground of his unfitness to cross the bar ;
- (iii) non-promotion whether in a substantive or officiating capacity of an officer, after consideration of his case, to a grade or post for promotion to which he is eligible ;
- (iv) reversion to a lower grade or post of an officer officiating in a higher grade or post on the ground that he is considered, after trial, to be unsuitable for such higher grade or post or on administrative grounds unconnected with his conduct ;

(v) reversion to his permanent grade or post of an officer appointed on probation to another grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation ;

(vi) compulsory retirement of an officer in accordance with the provisions relating to his superannuation or retirement;

(vii) termination of the services --

(a) of an officer appointed on probation during or at the end of the period of probation, in accordance with the terms of his appointment or the rules and orders governing probation ; or

(b) of a temporary officer in accordance with the rules applicable to him ; or

(c) of an officer employed under an agreement, in accordance with the terms of such agreement.

12. Subject to the provisions of article 311 of the Constitution, the Speaker shall have the power to impose any of the penalties specified in section 11 on any officer :

Punishing
authority.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer the power to impose any of the said penalties on any officer other than an officer of Class I.

87 of
1950.

13. Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1950, no order imposing on an officer any of the penalties specified in clauses (iv) to (vi) of section 11 shall be passed except after an inquiry held, as far as may be, in such manner as may be prescribed.

Procedure
before
Punishment.

14. If having regard to the nature of the charges and the circumstances in any case, the punishing authority, referred to in section 12, which initiates any disciplinary proceedings is satisfied that it is necessary or desirable to place under suspension the officer against whom such proceeding is contemplated or is pending, the said authority, may pass an order placing him under suspension, or take such action with regard to his suspension as may be prescribed.

Suspension
during
inquiry.

Provided that an officer shall not be placed under suspension for more than six months, and inquiry against him shall be completed within six months in all respects.

15. (1) Every officer shall have a right to appeal to the Speaker against any order passed originally or on appeal by the Secretary imposing or confirming any penalty specified in section 11 :

Appeal.

Provided that where an order is passed originally by any authority subordinate to the Secretary, an appeal against such order shall first lie to the Secretary.

(2) The orders of the Speaker, whether passed originally or on appeal, shall be final :

Provided that the Speaker may, of his own motion on or application, revise or rescind any order passed by him under this section.

(3) The period within which an appeal may be submitted, the authority to which an appeal against an order of suspension may be submitted, and all matters incidental thereto shall be such as may be prescribed.

**Budget
Estimates.**

16. (1) The Budget estimates of the Secretariat shall be prepared by the Secretariat and sent to the Finance Department which shall normally accept the estimates without any change.

(2) In case, the Finance Department is unable to accept any of the proposals contained in the budget estimates and the matter cannot be resolved between the Secretariat and the Finance Department, it shall be placed before a meeting between the Speaker and the Minister of Finance.

(3) If the matter still remains unresolved, it shall be placed before a meeting of the Chief Minister, the Speaker and the Minister of Finance and the decision arrived at such meeting shall be final.

**Financial
Powers.**

17. The Speaker shall have full financial powers in respect of the Secretariat within the budget grants of the Secretariat.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer any of his powers in this regard :

Provided further that such financial powers as are vested in a Secretary to the State Government shall be deemed to have been delegated by the Speaker to the Secretary in respect of the Secretariat.

**Authenti-
cation of
orders and
issue of
financial
sanctions.**

18. (1) Orders of the Governor or Speaker relating to the Gujarat Legislative Assembly and orders of the Speaker relating to the Secretariat may, if necessary be authenticated by the Secretary and issued or published by him in such manner as the Speaker may, by general or special order, from time to time specify.

(2) All financial sanction relating to the Secretariat shall be issued by the Secretary or by any other officer of the Secretariat to whom any such power is delegated by him.

**Correspo-
ndence
with State
Government
etc ;**

19. All correspondence with the Department of the State Government and other outside authorities shall be carried on by the Secretary or other officers with the concerned Departments or authorities directly.

**Power to
make
rules.**

20. (1) The Speaker may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) The Speaker may, if he so considers necessary, appoint a Committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under this Act.

21. Subject to the provisions of section 9 all matters not specifically provided for in this Act, whether incidental or ancillary to the provisions of this Act or otherwise, shall be regulated in accordance with such orders as the Speaker may, from time to time make.

Residuary.
Powers

22. All questions relating to the interpretation of the provisions of this Act and the rules made thereunder shall be referred to the Speaker whose decision thereon shall be final.

Interpre-
tation.

23. Save as otherwise expressly provided in this Act, all rules corresponding to the provisions of this Act, and in force immediately before the commencement of this Act, are hereby repealed;

Repeal
and
saving.

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Article 187 of the Constitution provides that the House of the Legislature shall have a separate secretarial staff. This Article authorises the State Legislatures to make law for regulating the recruitment and conditions of service of persons appointed to the secretarial staff of the House. Clause (3) of that article also provides that until any law is made by the State Legislature, the matters may be regulated by rules to be made by the Governor after consultation with the Speaker of the House. Such a provision in clause (3) seems to have been made with a view to ensure immediate functioning of the house of different State Legislatures. Thus the provision of clause (3) of Article 187 appears to be transitory. The rules made under this clause have, however been continued for a long time; The present set of rules made in pursuance of Article 187(3) of the Constitution might have served the purpose in the past, but now the House is experiencing many difficulties. The Hon'ble the Speaker has to approach the executive for sanctioning of a new post even of a peon and even for small financial expenditure. The House and its committees cannot function effectively and efficiently and cannot ensure accountability of the executive as envisaged under Article 164(2), unless it has an independent Secretariat. Independence includes financial independence also. Under the present circumstances, the House may not feel it necessary

to grant full financial freedom to the Legislature Secretariat. It may, however, be given maximum latitude in financial matters and in sanctioning of certain posts in the Legislature Secretariat so that effective functioning of the House may not be hampered.

Executive and Legislatures are the creatures of the Constitution and both are independent of each other. In practice, however, the Legislature has to depend in many respects on the executive. The present set-up of rules made in pursuance of Article 187(3) are not conducive to the healthy growth of the Legislature Secretariat. The executive has dominated over the Legislature Secretariat and has treated it as subordinate to the Government department. Such a situation should not be allowed to last long.

The Bill is brought before the House in pursuance of Article 187(2) of the Constitution with a view to provide separate and independent Secretariat. The provision has been made in the Bill empowering the Speaker to sanction all posts except certain class I posts, so that the activities of the House do not suffer for want of staff or due to the delay in sanctioning the staff by the executive. The Bill seeks to give full financial powers to the Speaker within the sanctioned budget grant.

(SIGNED)

Dated the 10th October, 1990,
Gandhinagar.

NARESH RAVAL

(M.L.A.)

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (b) of clause 4, empowers the Speaker to sanction posts and categories in addition to those referred in clause (a).

Sub-clause (2) of clause 5, empowers the Speaker to make rules for specifying methods for filling posts, determining proportion of vacancies to be filled and to specify the class of officers and conditions for promotion.

Clause 6 empowers the Speaker to make rules for prescribing qualifications for recruitment.

Clause 7 empowers the Speaker to make appointments to the posts in the Secretariat.

The proviso to clause 8 empowers the Speaker to extend or reduce period of probation upto one year.

Sub-clause (1) of clause 9 empowers the Speaker to make rules regarding the pay, pension and other conditions of service of the officers.

Sub-clause (3) of clause 9 empowers the Speaker to specify modifications, variations or exceptions subject to which the officers of the Secretariat shall, be governed in case of non-provision or insufficient provision made in the rules made under the said Act.

Clause 12 of the Bill empowers the Speaker to impose on any officer any of the penalties specified in clause 11.

Clause 13 empowers the Speaker to prescribe manner for holding inquiry before imposing any penalty on an officer.

Clause 14 empowers the punishing authority to pass an order of suspension or prescribe action to be taken with regard to his suspension.

The proviso to sub-clause (2) of clause 15 empowers the Speaker to revise or rescind any order passed by him under the clause.

Sub-clause (3) of clause 15 empowers the Speaker to prescribe the period within which and the authority to which an appeal against the order of suspension may be submitted and to prescribe all matters incidental thereto.

Sub-clause (1) of clause 18 empowers the Speaker to specify the manner for authentication and issuance of orders of the Governor or the speaker by the Secretary.

Sub-clause (1) of clause 20 empowers the Speaker to make rules for carrying out the purposes of the Act.

Sub-clause (2) of clause 20 empowers the Speaker to appoint a committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under the Act.

Clause 21 empowers the Speaker to make orders in respect of matters incidental or ancillary and for all matters not specifically provided for in the Act.

The delegation of Legislative powers as aforesaid is necessary and of normal character.

Dated the 10th October, 1990,
Gandhinagar.

(SIGNED).

NARESH RAVAL,

(M.L.A.)"

Gandhinagar.

Dated the 14th February, 1991.

V—Ex. 14—3

P. N. THAKKER,
Secretary,

Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII THURSDAY, FEBRUARY 14, 1991/MAGHA 25, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th February 1991 by Shri Harischandra Patel, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"Gujarat Bill No. 15 of 1991.

THE GUJARAT LEGISLATIVE ASSEMBLY SECRETARIAT (RECRUITMENT AND CONDITIONS OF SERVICE) BILL, 1990.

A BILL

to regulate the recruitment and the conditions of service of persons appointed to the secretariat staff of the Gujarat Legislative Assembly and for matters connected therewith,

It is hereby enacted in the Forty first Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Legislative Assembly Secretariat (Recruitment and Conditions of Service) Act, 1990.

(2) It shall come into force at once.

Short title,
and
Commence-
ment.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) 'Board' means a Board consisting of the Minister for Finance, the Minister for Parliamentary Affairs, Leader of the Opposition and the Chairman of the Estimates Committee;

(b) 'Chief Minister' means Chief Minister of the State of Gujarat or any other Minister acting as Chief Minister;

(c) 'Constitution' means Constitution of India;

(d) "Officer" means a person appointed to, or borne on the cadre of the secretarial staff of the Gujarat Legislative Assembly;

(e) "Post" means a post in the Secretariat;

(f) "Prescribed" means prescribed by rules made under this Act;

(g) "Secretary" means the Secretary of the Gujarat Legislative Assembly;

(h) "Secretariat" means the Gujarat Legislature Secretariat;

(i) "Speaker" means the Speaker of the Gujarat Legislative Assembly; and

(j) "State Government" means the Government of Gujarat.

Separate
and
Independent
Secretariat.

3. For the purpose of Article 187 there must be a separate Secretariat for the Gujarat Legislative Assembly known as Gujarat Legislature Secretariat and the services thereunder shall be known as Legislative Services.

Strength
and
Composition
of the
Secretariat.

4. There shall be in the Secretariat:—

(a) such categories of posts and such number of posts in each category as exists at the commencement of this Act; and

(b) such additional posts in the categories referred to in clause (a) and such additional categories and number of posts therein, as the Speaker may from time to time sanction.

Method of
recruitment.

5. (1) Recruitment to a post or class of posts may be made by any one of the following methods, namely:—

(a) by promotion from among the officers in the Secretariat.

(b) by transfer of a person or persons serving outside the Secretariat in connection with the affairs of the State of Gujarat or of any other State or of the Union;

(c) by direct recruitment;

(2) The Speaker may, by rule, from time to time.

(a) specify the method or methods by which a post or class of posts may be filled;

(b) determine the proportion of vacancies to be filled by each method; and

(c) in case of recruitment by promotion, specify the class of officers who, and the conditions subject to which they, shall be eligible for such promotion.

6. The qualifications for recruitment to any post or class of posts shall be such as may be prescribed.

Qualification
for
recruitment.

7. Subject to the authority of the Speaker and the provisions contained in these rules the Secretary shall exercise superintendence and control over the staff and administration of the Secretariat.

Administra-
tive
control.

8. Appointment to the gazetted posts shall be made by the Speaker and to the other posts shall be made by the Secretary.

Appointment
to the Gaze-
tted post

9. Every person appointed to a permanent post by direct recruitment, with a view to his eventual substantive appointment to that post, shall be on probation for a period of two years :

Probation.

Provided that the Speaker or the Secretary or any other officer to whom power is delegated under section 7 may, by order, extend, or reduce the period of probation upto one year in the case of any person appointed by him or any officer subordinate to him to any post specified in such order.

10. (1) The pay-scales, pensions, allowances and other conditions of services of the officers and staff of the Legislative services shall be such as may be fixed by the Speaker on the recommendation of the Board.

Pay scales
and other
conditions
of
service.

Provided that the pay-scales, pensions, allowances and other conditions of services of the officers and members of the staff of the legislative services shall not be lower than or inferior to those admissible or applicable, as the case may be, to the officers in the corresponding posts in the Secretariat of the State Government.

(2) Until the rules are made under sub-section (1) the pay-scales, pensions, allowances and other conditions of service of the officers and staff of the Legislative service shall continue to be governed by the rules or orders as in force at the commencement of this act.

(3) In all matters regulating the conditions of service of the officers of the Secretariat for which no provision or insufficient provision has been made in the rules, made under this Act, the officers shall be governed by such rules as are applicable to the officers in the corresponding posts in the Secretariat of the State Government, subject to such modifications, variations or exceptions in such rules as the Speaker may, by order, from time to time specify.

Explanation.—For the purpose of this section if any question arises as to which post in the Secretariat of the State Government corresponds to which particular post in the Secretariat, the decision of the Speaker thereon shall be final.

Penalties.

11. The following penalties may, for good and sufficient reasons, be imposed on an officer, namely :

- (i) censure;
- (ii) withholding of increments or promotion;
- (iii) recovery from pay of the whole or part of any pecuniary loss caused to the State by negligence or breach of order;
- (iv) reduction to a lower grade or post or to a lower timescale or to a lower stage in a time scale;
- (v) compulsory retirement;
- (vi) removal from service in the Secretariat which shall not be disqualification for future employment under the Secretariat or the Government.
- (vii) dismissal from service in the Secretariat which shall ordinarily be a disqualification for future employment under the Secretariat or the Government.

Explanation.—The following shall not amount to be a penalty within the meaning of this section :

- (i) withholding of increments of an officer for failure to pass a department examination in accordance with the rule or orders governing the post or the terms of his appointment.
- (ii) stoppage of an officer at the efficiency bar in the time-scale on the ground of his unfitness to cross the bar;
- (iii) non-promotion whether in a substantive or officiating capacity of an officer, after consideration of his case, to grade or post for promotion to which he is eligible;
- (iv) reversion to a lower grade or post of an officer officiating in a higher grade or post on the ground that he is considered, after trial, to be unsuitable for such higher grade or post or on administrative grounds unconnected with his conduct;
- (v) reversion to his permanent grade or post of an officer appointed on probation to another grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation;
- (vi) compulsory retirement of an officer in accordance with the provisions relating to his superannuation or retirement;
- (vii) termination of the services—
 - (a) of an officer appointed on probation during or at the end of the period of probation, in accordance with the terms of his appointment or the rules and orders governing probation; or

(b) of temporary officer in accordance with the rules applicable to him; or

(c) of an officer employed under an agreement, in accordance with the terms of such agreement.

12 Subject to the provisions of article 311 of the Constitution, the Speaker, shall have the power to impose any of the penalties specified in section 11 on any officer :

Punishing
authority.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer the power to impose any of the said penalties on any officer other than an officer of Class I.

87 of 1950. 13. Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1950, no order imposing on an officer any of the penalties specified in clauses (iv) to (vi) of section 11 shall be passed except after an inquiry held, as far as may be, in such manner as may be prescribed.

Procedure
before
Punish-
ment.

14. If having regard to the nature of the charges and the circumstances in any case, the punishing authority referred to in section 12, which initiates any disciplinary proceedings is satisfied that it is necessary or desirable to place under suspension the officer against whom such proceeding is contemplated or is pending, the said authority may pass an order placing him under suspensions, or take such action with regard to his suspension as may be prescribed :

Suspension
during
inquiry.

Provided that an officer shall not be placed under suspension for more than six months and inquiry against him shall be completed within six months in all respects.

15. (1) Every officer shall have a right to appeal to the Speaker against any order passed originally or on appeal by the Secretary imposing or confirming any penalty specified in section 11 :

Appeal.

Provided that where an order is passed originally by any authority subordinate to the Secretary, an appeal against such order shall first lie to the Secretary.

(2) The order of the Speaker, whether passed originally or on appeal shall be final :

Provided that the Speaker may, of his own motion or on application, revise or rescind any order passed by him under this section.

(3) The period within which an appeal may be submitted, the authority to which an appeal against an order of suspension may be submitted, and all matters incidental thereto shall be such as may be prescribed.

Budget
Estima-
tes.

16. (1) The budget estimates of the Secretariat shall be prepared by the Secretariat and sent to the Finance Department which shall normally accept the estimates without any change.

(2) In case, the Finance Department is unable to accept any of the proposals contained in the budget estimates and the matter cannot be resolved, between the Secretariat and the Finance Department, it shall be placed before meeting between the Speaker and the Minister of Finance.

(3) If the matter still remains unresolved it shall be placed before a meeting of the Chief Minister, the Speaker and the Minister of Finance and the decision arrived at such meeting shall be final.

Financial powers.

17. The Speaker shall have full financial powers in respect of the Secretariat within the budget Grants of the Secretariat :

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer any of his powers in this regard :

Provided further that such financial powers as are vested in a Secretary to the State Government shall be deemed to have been delegated by the Speaker to the Secretary in respect of the Secretariat.

Authentication of orders and issue of Financial sanctions.

18. (1) Orders of the Governor or Speaker relating to the Gujarat Legislative Assembly and orders of the Speaker relating to the Secretariat may, if necessary be authenticated by the Secretary and issued or published by him in such manner as the Speaker may, by general or special order, from time to time specify.

(2) All financial sanctions relating to the Secretariat shall be issued by the Secretary or by any other officer of the Secretariat to whom any such power is delegated by him.

Correspondence with State Government etc.

19. All correspondence with the Department of the State Government and other outside authorities shall be carried on by the Secretary or other officers with the concerned Departments or authorities directly.

Power to make rules.

20. (1) The Speaker may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) The Speaker may, if he so considers necessary, appoint a Committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under this Act.

Residuary powers.

21. Subject to the provisions of section 9 all matters not specifically provided for in this Act, whether incidental or ancillary to the provisions of this Act or otherwise, shall be regulated in accordance with such orders as the Speaker may, from time to time make.

Interpretation.

22. All questions relating to the interpretation of the provisions of this Act, and the rules made thereunder shall be referred to the Speaker whose decision thereon shall be final.

Repeal and saving.

23. Save as otherwise expressly provided in this Act, all rules corresponding to the provisions of this Act, and in force immediately before the commencement of this Act, are hereby repealed.

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Article 187 of the Constitution provides that the House of the Legislature shall have separate secretarial staff. This Article authorises the State Legislatures to make law for regulating the recruitment and conditions of service of persons appointed to the secretarial staff of the House. Clause (3) of that article also provides that until any law is made by the State Legislature, the matters may be regulated by rules to be made by the Governor after consultation with the Speaker of the House. Such a provision in clause (3) seems to have been made with a view to ensure immediate functioning of the house of different State Legislatures. Thus the provision of clause (3) of Article 187 appears to be transitory. The rules made under this clause have, however been continued for a long time; The present set of rules made in pursuance of Article 187(3) of the Constitution might have served the purpose in the past, but now the House is experiencing many difficulties. The Hon'ble the Speaker has to approach the executive for sanctioning of a new post even of a peon and even for small financial expenditure. The House and its committees cannot function effectively and efficiently and cannot ensure accountability of the executive as envisaged under Article 164(2), unless it has an independent Secretariat, Independence includes financial independence also. Under the present circumstances, the House may not feel it necessary to grant full financial freedom to the Legislature Secretariat. It may however, be given maximum latitude in financial matters and in sanctioning of certain posts in the Legislature Secretariat so that effective functioning of the House may not be hampered.

The Legislature Secretariat is meant for the services of the House and its Committees and is supposed to be impartial and independent of the Executive. The rules made under Article 187 of the Constitution by the Government do not provide for independent secretariat as the rules are made by the Government. At present the Legislature Secretariat is under the control of the Executive as final decision with regard to the appointment and conditions of service of the legislative staff and creation of new posts are taken by the Government. From such Legislature Secretariat one cannot expect impartiality. In Lok Sabha, in Kerala and in some other states rules regarding recruitment and conditions of service of Legislature Secretariat are in consonance with the spirit of Article 187 of the Constitution. In Gujarat the position is very different. Our former Speakers Shri Viththalbhai Patel and Shri G. V. Mavlankar have emphasised the need for an independent Secretariat.

The Bill seeks to achieve the above objective.

(Sd)/-

HARISHCHANDRA PATEL

M.L.A.

Dated the, 10th October, 1990.
Gandhinagar.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (b) of clause 4, empowers the Speaker to sanction posts and categories in addition to those referred in clause (a).

Sub-clause (2) of clause 5, empowers the Speaker to make rules for specifying methods for filling posts, determining proportion of vacancies to be filled and to specify the class of officers and conditions for promotion.

Clause 6 empowers the Speaker to make rules prescribing qualifications for recruitment.

Clause 8 empowers the Speaker to make appointment to the posts in the Secretariat.

The proviso to clause 9 empowers the Speaker to extend or reduce period of probation upto one year.

Sub-clause (1) of clause (10) empowers the Speaker to make rule regarding the pay pension and other conditions of service of the officers and

Sub-clause (3) of clause 10 empowers the Speaker to specify modifications, variations or exceptions subject to which the officers of the Secretariat shall be governed in case of non-provision or insufficient provision made in the rules made under the said Act.

Clause 12 of the Bill empowers the Speaker to impose on any officer any of the penalties specified in clause 11.

Clause 13 empowers the Speaker to prescribe manner for holding inquiry before imposing any penalty on an officer.

Clause 14 empowers the punishing authority to pass an order of suspension or prescribe action to be taken with regard to his suspension.

The proviso to sub-clause (2) of clause 15 empowers the Speaker to revise or rescind any order passed by him under this clause.

Sub-clause (3) of clause 15 empowers the Speaker to prescribe the period within which and the authority to which an appeal against the order of the suspension may be submitted and to prescribe all matters incidental thereto.

Sub-clause (1) of clause 18 empowers the Speaker to specify the manner for authentication and issuance of orders of the Governor or the speaker by the Secretary.

Sub-clause (1) of clause 20 empowers the Speaker to make rules for carrying out the purposes of the Act.

Sub-clause (2) of clause 20 empowers the Speaker to appoint a committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under the Act.

Clause 21 empowers the Speaker to make orders in respect of matters incidental or ancillary and for all matters not specifically provided for in the Act.

The delegation of Legislative powers as aforesaid is necessary and of normal character.

Dated the 10th October, 1990.
Gandhinagar.

Sd/-
HARISHCHANDRA PATEL,
M.L.A.",

Gandhinagar.
Dated the 14th February, 1991.

P. N. THAKKER,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, FEBRUARY 14, 1991/MAGHA, 25, 1912

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th February, 1991 by Shri Navinbhai Shastri, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"Gujarat Bill No. 16 of 1991.

THE GUJARAT LEGISLATIVE ASSEMBLY SECRETARIAT (RECRUITMENT AND CONDITIONS OF SERVICE) BILL, 1990.

A BILL

to regulate the recruitment and the conditions of service of persons appointed to the secretariat staff of the Gujarat Legislative Assembly and for matters connected therewith.

It is hereby enacted in the Forty first Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Legislative Assembly Secretariat (Recruitment and Conditions of Service) Act, 1990.

Short
title,
and
commence-
ment. g

(2) It shall come into force at once.

Defini-
tion.

2. In this Act, unless the context otherwise requires,—

(a) 'Board' means a Board consisting of the Minister for Finance, the Minister for Parliamentary Affairs, Leader of the Opposition and the Chairman of the Estimates Committee;

(b) 'Chief Minister' means Chief Minister of the State of Gujarat or any other Minister acting as Chief Minister.

(c) 'Constitution' means Constitution of India.

(d) 'Officer' means a person appointed to, or borne on the cadre of the secretarial staff of the Gujarat Legislative Assembly;

(e) 'Post' means a post in the Secretariat;

(f) 'Prescribed' means prescribed by rules made under this Act;

(g) 'Secretary' means the Secretary of the Gujarat Legislative Assembly;

(h) 'Secretariat' means the Gujarat Legislature Secretariat;

(i) 'Speaker' means the Speaker of the Gujarat Legislative Assembly; and

(j) 'State Government' means the Government of Gujarat.

Separate
and
independent
Secretariat.

3. (1) For the purpose of Article 187 there must be a separate Secretariat for the Gujarat Legislative Assembly known as Gujarat Legislature Secretariat and the services thereunder shall be known as Legislative Services.

Strength
and
composition
of the
Secretariat.

4. There shall be in the Secretariat :—

(a) such categories of posts and such number of posts in each category as exists at the commencement of this Act; and

(b) such additional posts in the categories referred to in clause (a) and additional categories and number of posts therein, as the Speaker may from time to time sanction;

Method of
recruitment.

5. (1) Recruitment to a post or class of posts may be made by any one of the following methods, namely :—

(a) by promotion from among the officers in the Secretariat.

(b) by transfer of a person or persons serving outside the Secretariat in connection with the affairs of the State of Gujarat or of any other State or of the Union;

(c) by direct recruitment;

(2) The Speaker may, by rule, from time to time :—

(a) specify the method or methods by which a post or class of posts may be filled;

(b) determine the proportion of vacancies to be filled by each method; and

(c) in case of recruitment by promotion, specify the class of officers who, and the conditions subject to which they, shall be eligible for such promotion.

6. The qualifications for recruitment to any post or class of posts shall be such as may be prescribed. Qualification for recruitment.

7. Subject to the authority of the Speaker and the provisions contained in the rules the Secretary shall exercise superintendence and control over the staff and administration of the Secretariat. Administrative control.

8. Appointment to the gazetted posts shall be made by the Speaker and to the other posts shall be made by the Secretary. Appointing authority.

9. Every person appointed to a permanent post by direct recruitment, with a view to his eventual substantive appointment to that post, shall be on probation for a period of two years : Probation.

Provided that the Speaker or the Secretary or any other officer to whom power is delegated under section 7 may, by order, extend or reduce the period of probation upto one year in the case of any person appointed by him or any officer subordinate to him to any post specified in such order.

10. (1) The pay scales, pensions, allowances and other conditions of service of the officers and staff of the Legislative services shall be such as may be fixed by the Speaker on the recommendations of the Board. Pay and other conditions of service.

(2) Provided that the pay scales, pensions, allowances and other conditions of services of the officers and members of the staff of the legislative services shall not be lower than or inferior to those admissible or applicable, as the case may be, to the officers in the corresponding posts in the Secretariat of the State Government.

(3) Until the pay-scales, pension, etc. are fixed under sub-section (1), the pay-scales, pensions, allowances and other conditions of service of the officers and staff of the Legislative service shall continue to be governed by the rules or orders as in force at the commencement of this act.

(4) In all matters regulating the conditions of service of the officers of the Secretariat for which no provision or insufficient provision has been made in the rules, made under this Act, the officers shall be governed by such rules as are applicable to the officers in the corresponding posts in the Secretariat of the State Government, subject to such modifications, variations or expectations in such rules as the Speaker may, by order, from time to time specify.

Explanation.—For the purpose of this section if any question arises as to which post in the Secretariat of the State Government corresponds to which particular post in the Secretariat, the decision of the Speaker shall be final.

11. The members of the Legislative Service shall be subject to the superintendence and disciplinary control of the Appointing Authorities.

Power to
grant leave

12. (1) Casual leave to the Secretary, Sergeant-at-Arms and Deputy Sergeant-at-Arms may be granted by the Speaker.

(2) Casual leave to all other Members of the Secretariat staff may be granted by the Secretary.

(3) Casual leave to a Security Officer and Security Guard may be granted by the Sergeant-at-Arms.

(4) Leave other than Casual Leave to any Class-I Officer may be granted by the Speaker.

(5) Leave other than Casual Leave to any Class-II Officer or any member of the Staff may be granted by the Secretary.

Budget
Estimates.

13. (1) The budget estimates of the Secretariat shall be prepared by the Secretariat and sent to the Finance Department which shall normally accept the estimates without any change.

(2) In case, the Finance Department is unable to accept any of the proposals contained in the budget estimates and the matter cannot be resolved between the Secretariat and the Finance Department, it shall be placed before a meeting between the Speaker and the Minister of Finance.

(3) If the matter still remains unresolved, it shall be placed before a meeting of the Chief Minister, the Speaker and the Minister of Finance and the decision arrived at such meeting shall be final.

14. The Speaker shall have full financial powers in respect of the Secretariat ^{Financial powers.} within the budget grants of the Secretariat :

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer any of his powers in this regard:

Provided further that such financial powers as are vested in a Secretary to the State Government shall be deemed to have been delegated by the Speaker to the Secretary in respect of the Secretariat.

15. (1) Orders of the Governor or Speaker relating to the Gujarat Legislative Assembly and orders of the Speaker relating to the Secretariat may, if necessary be authenticated by the Secretary and issued or published by him in such manner as the Speaker may, by general or special order, from time to time specify. ^{Authentication of orders and issue of Financial sanctions.}

(2) All financial sanctions relating to the Secretariat shall be issued by the Secretary or by any other officer of the Secretariat to whom any such power is delegated by him.

16. All correspondence with the Department of the State Government and other outside authorities shall be carried on by the Secretary or other officers with the concerned Departments or authorities directly. ^{Correspondence with State Government etc.}

17. (1) The Speaker may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. ^{Power to make rules.}

(2) The Speaker may, if he so considers necessary, appoint a Committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under this Act.

18. Subject to the provisions of section 9 all matters not specifically provided for in this Act, whether incidental or ancillary to the provisions of this Act or otherwise, shall be regulated in accordance with such orders as the Speaker may, from time to time make. ^{Residuary powers.}

19. All questions relating to the interpretation of the provisions of this Act and the rules made thereunder shall be referred to the Speaker whose decision thereon shall be final. ^{Interpretation}

20. Save as otherwise expressly provided in this Act, all rules corresponding to the provisions of this Act, and in force immediately before the commencement of this Act, are hereby repealed : ^{Repeal and saving.}

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Article 187 of the Constitution provides that the House of the Legislature shall have a separate secretarial staff. This Article authorises the State Legislatures to make law for regulating the recruitment and conditions of service of persons appointed to the secretarial staff of the House. Clause (3) of that article also provides that until any law is made by the State Legislature, the matters may be regulated by rules to be made by the Governor after consultation with the Speaker of the House. Such a provision in clause (3) seems to have been made with a view to ensure immediate functioning of the house of different State Legislatures. Thus the provision of clause (3) of Article 187 appears to be transitory. The rules made under this clause have, however been continued for a long time; The present set of rules made in pursuance of Article 187(3) of the Constitution might have served the purpose in the past, but now the House is experiencing many difficulties. The Hon'ble the Speaker has to approach the executive for sanctioning of a new post even of a peon and even for small financial expenditure. The House and its committees cannot function effectively and efficiently and cannot ensure accountability of the executive as envisaged under Article 164(2), unless it has an independent Secretariat, Independence includes financial independence also. Under the present circumstances, the House may not feel it necessary to grant full financial freedom to the Legislature Secretariat. It may however, be given maximum latitude in financial matters and in sanctioning of new posts in the Legislature Secretariat so that effective functioning of the House may not be hampered.

The legislature Secretariat is meant for the services of the House and its Committees and is supposed to be impartial and independent of the Executive. The rules made under Article 187 of the Constitution by the Government do not provide for independent secretariat as the rules are made by the Government. At present the Legislature Secretariat is under the control of the Executive as final decision with regard to the appointment and conditions of service of the legislative staff and creation of new posts are taken by the Government. From such a Legislature Secretariat one cannot expect impartiality. In Lok Sabha, in Kerala and in some other states rules regarding recruitment and conditions of service of Legislature Secretariat are in consonance with the spirit of Article 187 of the Constitution. In Gujarat the position is very different. Our former Speakers Shri Vitthalbhai Patel and Shri G. V. Mavlankar have emphasised the need for an independent Secretariat.

The Bill seeks to achieve the above objective.
Gandhinagar.

Dated the 12th October, 1990.

(Signed.)

NAVINBHAI SHASTRI.
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (b) of clause 4, empowers the Speaker to sanction posts and categories in addition to those referred in clause (a).

Sub-clause (2) of clause 5, empowers the Speaker to make rules for specifying methods for filling posts, determining proportion of vacancies to be filled and to specify the class of officers and conditions for promotion.

Clause 6 empowers the Speaker to make rules for prescribing qualifications for recruitment.

The proviso to clause 9 empowers the Speaker to extend or reduce period of probation upto one year.

Sub-clause (4) of clause 10 empowers the Speaker to specify modification, variations or exceptions subject to which the officers of the Secretariat shall be governed in case of non-provision or insufficient provision made in the rules made under the said Act.

Sub-clause (1) of clause 15 empowers the Speaker to specify the manner for authentication and issuance of orders of the Governor or the Speaker by the Secretary.

Sub-clause (1) of clause 17 empowers the Speaker to make rules for carrying out the purpose of the Act.

Sub-clause (2) of clause 17 empowers the Speaker to appoint a committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under the Act.

Clause 18 empowers the Speaker to make orders in respect of matters incidental or ancillary and for all matters not specifically provided for in the Act.

The delegation of Legislative powers as aforesaid is necessary and of normal character.

Gandhinagar.

Dated the 12th October, 1990.

(Signed)

NAVINBHAI SHASTRI.
M.L.A."

Gandhinagar.

Dated the 14th February, 1991.

P. N. THAKKER.
Secretary,
Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXI] THURSDAY, FEBRUARY 14, 1991/MAGHA 25, 1912

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th February 1991 by Shri Jaynarayan Vyas, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"Gujarat Bill No. 17 of 1991.

**THE GUJARAT LEGISLATIVE ASSEMBLY SECRETARIAT
 (RECRUITMENT AND CONDITIONS OF SERVICE) BILL, 1990.**

A BILL

to regulate the recruitment and the conditions of service of persons appointed to the secretarial staff of the Gujarat Legislative Assembly and for matters connected therewith.

It is hereby enacted in the Forty first Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Legislative Assembly Secretariat (Recruitment and Conditions of Service) Act, 1990.

(2) It shall come into force at once.

Short,
title and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "officer" means a person appointed to, or borne on the cadre of, the secretarial staff of the Gujarat Legislative Assembly ;

(b) "officer of Class I, Class-II, Class III or Class IV" means an officer holding a post in Class I, Class II, Class III or Class IV, at the commencement of this Act.

(c) "post" means a Post in the Secretariat ; a

(d) "prescribed" means perescribed by rules made under this Act ;

(e) "Secretary" means the Secretary of the Gujarat Legislative Assembly ;

(f) "Secretariat" means the Gujarat Legislature Secretariat ;

(g) "Speaker" means the Speaker of the Gujarat Legislative Assembly and

(h) "State Government." means the Government of Gujarat.

Separate
and
independent
Secretariat.

3. (1) Subject to the provisions of this Act, the Gujarat Legislative Assembly shall have a separate Secretariat, independent of the administrative and financial control of the State Government.

(2) The Gujarat Legislative Assembly Secretariat shall be under the Administrative and financial control of the Speaker.

Strength
and
composition
of the
Secretariat.

4. There shall be in the Secretariat :—

(a) such categories of posts and such number of posts in each category as exists at the commencement of this Act; and

(b) such additional posts in the categories referred to in clause (a) and additional categories and number of posts therein, as the Speaker may from time to time sanction :

Provided that no order sanctioning the creation of a post of Secretary, Additional Secretary or Joint Secretary in Class I shall be made except after consultation with the Chief Minister.

Method of
recruitment.

5. (1) Recruitment to a post or class of posts may be by any one of the following methods, namely:—

(a) by promotion from among the officeres in the Secretariat ;

(b) by transfer of a person or persons serving outside the Secretariat in connection with the affairs of the State of Gujarat or of any other State or of the Union ;

(c) by direct recruitment.

(2) The Speaker may, by rule, from time to time,—

(a) specify the method or methods by which a post or class of posts may be filled;

(b) determine the proportion of vacancies to be filled by each method; and

(c) in case of recruitment by promotion, specify the class of officers who, and the conditions subject to which they, shall be eligible for such promotion.

6. The qualifications for recruitment to any post or class of posts shall be such as may be prescribed.

Qualifications
for
recruitment.

7. All appointments to the posts in the Secretariat shall be made by the Speaker :

Appointing
authority.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer, his power to make appointments to any post or class of posts specified in such order, being posts other than posts in Class I.

8. Every person appointed to a permanent post by direct recruitment, with a view to his eventual substantive appointment to that post, shall be on probation for a period of two years :

Probation.

Provided that the Speaker or the Secretary or any other officer to whom power is delegated under section 7 may, by order, extend or reduce the period of probation up to one year in the case of any person appointed by him or any officer subordinate to him to any post specified in such order.

9. (1) The Speaker may, after consultation with the Finance Department, or the General Administration Department as the case may be, make rules regarding the pay, pension and other conditions of service of the officers :

Pay and
other
conditions
of Service.

Provided that the scale of pay, pension and other conditions of service of the officers shall not be lower than or inferior to those admissible or applicable, as the case may be to, the officers in corresponding posts in the Secretariat of the State Government.

(2) Until rules are made under sub-section (1) the pay, pension and other conditions of service of the officers shall continue to be governed by the rules or orders in force at the commencement of this Act.

(3) In all matters regulating the conditions of service of the officers of the Secretariat for which no provision or insufficient provision has been made in the rules made under this Act, the officers shall be governed by such rules as are applicable to the officers in corresponding posts in the Secretariat of the State Government, subject to such modifications, variations or exceptions in such rules as the Speaker may, by order, from time to time specify.

Explanation.—For the purposes of this section if any question arises as to which post in the Secretariat of the State Government corresponds to which particular post in the Secretariat, the decision of the Speaker shall be final.

Superintendence and disciplinary control.

10. The officers shall be subject to the superintendence and disciplinary control of the Speaker :

Provided that the Speaker may by general or special order, delegate to the Secretary or any other officer any of his powers in this regard.

Penalties.

11. The following penalties may, for good and sufficient reasons, be imposed on an officer, namely:—

- (i) censure ;
- (ii) withholding of increments or promotion ;
- (iii) recovery from pay of the whole or part of any pecuniary loss caused to the State by negligence or breach of orders ;
- (iv) reduction to a lower grade or post or to a lower time-scale or to a lower stage in a time scale ;
- (v) compulsory retirement ;
- (vi) removal from service in the Secretariat which shall not be disqualification for future employment under the Secretariat or the Government.
- (vii) dismissal from service in the Secretariat which shall ordinarily be a disqualification for future employment under the Secretariat or the Government ;

Explanation.—The following shall not amount to a penalty within the meaning of this section :—

(i) withholding of increments of an officer for failure to pass a departmental examination in accordance with the rules or orders governing the post of the terms of his appointment ;

(ii) stoppage of an officer at the efficiency bar in the time-scale on the ground of his unfitness to cross the bar ;

(iii) non-promotion whether in a substantive or officiating capacity of an officer, after consideration of his case, to a grade or post for promotion to which he is eligible ;

(iv) reversion to a lower grade or post of an officer officiating in a higher grade or post on the ground that he is considered, after trial, to be unsuitable for such higher grade or post or on administrative grounds unconnected with his conduct ;

(v) reversion to his permanent grade or post of an officer appointed on probation to another grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation;

(vi) compulsory retirement of an officer in accordance with the provisions relating to his superannuation or retirement;

(vii) termination of the services—

(a) of an officer appointed on probation during or at the end of the period of probation, in accordance with the terms of his appointment or the rules and orders governing probation; or

(b) of a temporary officer in accordance with the rules applicable to him; or

(c) of an officer employed under an agreement, in accordance with the terms of such agreement.

12. Subject to the provisions of article 311 of the Constitution, the Speaker shall have the power to impose any of the penalties specified in section 11 on any officer :

Punishing
authority.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer the power to impose any of the said penalties on any officer other than an officer of Class I.

37 of
1950

13. Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1950, no order imposing on an officer any of the penalties specified in clauses (iv) to (vi) of section 11 shall be passed except after an inquiry held, as far as may be, in such manner as may be prescribed.

Procedure
before
punishment.

14. If having regard to the nature of the charges and the circumstances in any case, the punishing authority referred to in section 12, which initiates any disciplinary proceedings is satisfied that it is necessary or desirable to place under suspension the officer against whom such proceeding is contemplated or is pending, the said authority may pass an order placing him under suspension, or take such action with regard to his suspension as may be prescribed:

Suspension
during
inquiry.

Provided that an officer shall not be placed under suspension for more than six months and inquiry against him shall be completed within six months in all respects.

15. (1) Every officer shall have a right to appeal to the Speaker against any order passed originally or on appeal by the Secretary imposing, or confirming any penalty specified in section 11:

Appeal.

Provided that where an order is passed originally by any authority subordinate to the Secretary, an appeal against such order shall first lie to the Secretary.

(2) The orders of the Speaker, whether passed originally or on appeal, shall be final :

Provided that the Speaker may, of his own motion or on application, revise or rescind any order passed by him under this section.

(3) The period within which an appeal may be submitted, the authority to which an appeal against an order of suspension may be submitted, and all matters incidental thereto shall be such as may be prescribed.

Budget
Estimates.

16. (1) The budget estimates of the Secretariat shall be prepared by the Secretariat and sent to the Finance Department which shall normally accept the estimates without any change.

(2) In case, the Finance Department is unable to accept any of the proposals contained in the budget estimates and the matter cannot be resolved, between the Secretariat and the Finance Department, it shall be placed before a meeting between the Speaker and the Minister of Finance.

(3) If the matter still remains unresolved, it, shall be placed before a meeting of the Chief Minister, the Speaker and the Minister of Finance and the decision arrived at such meeting shall be final.

Financial
powers.

17. The Speaker shall have full financial powers in respect of the Secretariat within the budget grants of the Secretariat :

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer any of his powers in this regard :

Provided further that such financial powers as are vested in a Secretary to the State Government shall be deemed to have been delegated by the Speaker to the Secretary in respect of the Secretariat.

Authenti-
cation of
orders and
issue of
Financial
sanctions.

18. (1) Orders of the Governor or Speaker relating to the Gujarat Legislative Assembly and orders of the Speaker relating to the Secretariat may, if necessary be authenticated by the Secretary and issued or published by him in such manner as the Speaker may, by general or special order, from time to time specify.

(2) All financial sanctions relating to the Secretariat shall be issued by the Secretary or by any other officer of the Secretariat to whom any such power is delegated by him.

Correspon-
dence with
State
Government
etc.,

19. All correspondence with the Department of the State Government and other outside authorities shall be carried on by the Secretary or other officers with the concerned Departments or authorities directly.

Power to
make rules

20. (1) The Speaker may, by notification in the Official Gazette make Rules to carry out the purposes of this Act.

(2) The Speaker may, appoint a Committee of the House consisting of Finance Minister, Minister for Parliamentary Affairs and Chairman of Financial Committees, to advise him in regard to the Rules to be made under this Act.

21. Subject to the provisions of section 9 all matters not specifically provided for in this Act, whether incidental or ancillary to the provisions of this Act or otherwise, shall be regulated in accordance with such orders as the Speaker may, from time to time make.

Residuary
Powers

22. All questions relating to the interpretation of the provisions of this Act and the rules made thereunder shall be referred to the Speaker whose decision thereon shall be final.

Inter-
pretation

23. Save as otherwise expressly provided in this Act, all rules corresponding to the provisions of this Act, and in force immediately before the commencement of this Act, are hereby repealed:

Repeal and
saving.

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Article 187 of the Constitution provides that the House of the Legislature shall have a separate secretarial staff. This Article authorises the State Legislature to make law for regulating the recruitment and conditions of service of persons appointed to the secretarial staff of the House. Clause 3 of that article also provides that until any law is made by the State Legislature, the matters may be regulated by rules to be made by the Governor after consultation with the Speaker of the House. Such a provision in clause (3) seems to have been made with a view to ensure immediate functioning of the house of different State Legislatures. Thus the provision of clause (3) of Article 187 appears to be transitory. The rules made under this clause have, however, been continued for a long time. The present set of rules made in pursuance of Article 187(3) of the Constitution might have served the purpose in the past, but now the House is experiencing many difficulties. The Honourable the Speaker has to approach the executive for sanctioning of a new post even of a peon and even for small financial expenditure. The House and its committees cannot function effectively and efficiently and cannot ensure accountability of the executive as envisaged under Article 164(2), unless it has an independent Secretariat. Independence includes financial independence also. Under the present circumstances, the House may not feel it necessary to grant full financial freedom to the Legislature Secretariat. It may, however, be given maximum latitude in financial matters and in sanctioning of certain posts in the Legislature Secretariat so that effective functioning of the House may not be hampered.

Executive and Legislatures are the creatures of the Constitution and both are independent of each other. In practice, however, the Legislature has to depend in many respect on the executive. The present set-up of rules made in pursuance of Art. 187(3) are not conducive to the healthy growth of the Legislature Secretariat. The executive has dominated over the Legislature Secretariat and has treated it as subordinate to the Government department. Such a situation should not be allowed to last long.

The Bill is brought before the House in pursuance of Art. 187(2) of the Constitution with a view to provide separate and independent Secretariat. The provision has been made in the Bill empowering the Speaker to sanction all posts except certain class 1 posts, so that the activities of the House do not suffer for want of staff or due to the delay in sanctioning the staff by the executive. The Bill seeks to give full financial powers to the Speaker within the sanctioned budget grant.

Dated the 11th October, 1990
Gandhinagar.

(Signed)
JAYNARAYAN VYAS
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (b) of clause 4, empowers the Speaker to sanction post and categories in addition to those referred in clause (a).

Sub-clause (2) of clause 5, empowers the Speaker to make rules for specifying methods for filling posts, determining proportion of vacancies to be filled and to specify the class of officers and conditions for promotion.

Clause 6 empowers the speaker to make rules for prescribing qualifications for recruitment.

Clause 7 empowers the Speaker to make appointments to the post in the Secretariat.

The proviso to clause 8 empowers the Speaker to extend or reduce period of probation upto one year.

Sub-clause (1) of clause 9 empowers the Speaker to make rules regarding the pay, pension and other conditions of service of the officers.

Sub-clause (3) of clause 9 empowers the Speaker to specify modifications, variations or exceptions subject to which the officers of the Secretariat shall be governed in case of non-provision or insufficient provision made in the rules made under the said Act.

Clause 12 of the Bill empowers the Speaker to impose on any officer any of the penalties specified in clause 11.

Clause 13 empowers the Speaker to prescribe manner for holding inquiry before imposing any penalty on an officer.

Clause 14 empowers the punishing authority to pass an order of suspension or prescribe action to be taken with regard to his suspension.

The proviso to sub-clause (2) of clause 15 empowers the Speaker to revise or rescind any order passed by him under the clause.

Sub-clause (3) of clause 15 empowers the Speaker to prescribe the period within which and the authority to which an appeal against the order of suspension may be submitted and to prescribe all matters incidental thereto.

Sub-clause (1) of clause 18 empowers the Speaker to specify the manner for authentication and issuance of orders of the Governor or the speaker by the Secretary.

Sub-clause (1) of clause 20 empowers the Speaker to make rules for carrying out the purposes of the Act.

Sub-clause (2) of clause 20 empowers the Speaker to appoint a committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under the Act.

Clause 21 empowers the Speaker to make orders in respect of matters incidental or ancillary and for all matters not specifically provided for in the Act.

The delegation of Legislative powers as aforesaid is necessary and of normal character.

Dated the 11th October, 1990.
Gandhinagar.

(Signed)
JAYNARAYAN VYAS
M.L.A."

Gandhinagar.
Dated the 14th February, 1991.

P. N. THAKKER,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, FEBRUARY 14, 1991/MAGHA 25, 1912

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th February, 1991
 by Shri Viththalbhai Shah, M.L.A. is published under rule 127-A of the
 Gujarat Legislative Assembly Rules for general information.

" Gujarat Bill No. 18 of 1991.

**THE GUJARAT LEGISLATIVE ASSEMBLY SECRETARIAT
 (RECRUITMENT AND CONDITIONS OF SERVICE) BILL, 1990.**

A BILL

*To regulate the recruitment and the conditions of service of persons appointed
 to the secretarial staff of the Gujarat Legislative Assembly and for matters
 connected therewith.*

It is hereby enacted in the Forty First Year of the Republic of India
 as follows :

1. (1) This Act may be called the Gujarat Legislative Assembly Secre-
 tariat (Recruitment and Conditions of Service) Act, 1990.

(2) It shall come into force at once.

Short
 title,
 and
 commence-
 ment.

Definition.

2. In this Act, unless the context otherwise requires,—

(a) "Board" means a Board consisting of the Minister for Finance, the Minister for Parliamentary Affairs, Leader of the Opposition, the Chairman of the Public Accounts Committee and the Chairman of the Estimates Committee.

(b) "Officer" means a person appointed to, or borne on the cadre of, the secretarial staff of the Gujarat Legislative Assembly;

(c) "Officer of Class-I, Class-II, Class-III or Class-IV" means an officer holding a post in Class-I, Class-II, Class-III or Class-IV, at the commencement of this Act.

(d) "Post" means a post in the Secretariat;

(e) "Prescribed" means prescribed by rules made under this Act;

(f) "Secretary" means the Secretary of the Gujarat Legislative Assembly;

(g) "Secretariat" means the Gujarat Legislature Secretariat;

(h) "Speaker" means the Speaker of the Gujarat Legislative Assembly; and

(i) "State Government" means the Government of Gujarat.

Separate
and
independent
Secretariat.

3. (1) Subject to the provisions of this Act, the Gujarat Legislative Assembly shall have a separate Secretariat, independent of the administrative and financial control of the State Government.

(2) The Gujarat Legislative Assembly Secretariat shall be under the Administrative and financial control of the Speaker.

Strength
and
composition
of the
Secretariat.

4. There shall be in the Secretariat :—

(a) such categories of posts and such number of posts in each category as exists at the commencement of this Act; and

(b) such additional posts in the categories referred to in clause (a) and such additional categories and number of posts therein, as the Speaker may from time to time sanction :

Provided that no order sanctioning the creation of a post of Secretary, Additional Secretary or Joint Secretary in Class I shall be made except after consultation with the Chief Minister.

Method of
recruitment.

5. (1) Recruitment to a post or class of posts may be made by any one of the following methods, namely :—

(a) by promotion from among the officers in the Secretariat;

(b) by transfer of a Person or persons serving outside the Secretariat in connection with the affairs of the State of Gujarat or of any other State or of the Union;

(c) by direct recruitment.

(2) The Speaker may, by rule, from time to time,—

(a) specify the method or methods by which a post or class of posts may be filled;

(b) determine the proportion of vacancies to be filled by each method; and

(c) in case of recruitment by promotion, specify the class of officers who, and the conditions subject to which they, shall be eligible for such promotion.

6. The qualifications for recruitment to any post or class of posts shall be such as may be prescribed.

Qualifi-
cation
for
recruitment.

7. All appointments to the posts in the Secretariat shall be made by the Speaker ;

Appointing
authority.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer, his power to make appointments to any post or class of posts specified in such order, being posts other than posts in Class I.

8. Every person appointed to a permanent post by direct recruitment, with a view to his eventual substantive appointment to that post, shall be on probation for a period of two years ;

Probation.

Provided that the Speaker or the Secretary or any other officer to whom power is delegated under section 7 may, by order, extend or reduce the period of probation up to one year in the case of any person appointed by him or any officer subordinate to him to any post specified in such order.

9. (1) The Speaker may after consultation with the Board, make rules regarding the pay, allowances, pension and other conditions of service of officers and staff of the Legislature Secretariat.

Pay and
other
conditions
of
Service.

Provided that the pay, allowances, pension and other conditions of service of the officers and staff of the Legislature Secretariat shall not be lower than or inferior to those admissible or applicable, as the case may be, to the officers in the corresponding posts in the Secretariat of the State Government.

(2) Until the pay, allowances, pension and other conditions of service are made under sub-rule (1), the pay, allowances, pension and other conditions of service of the officers and staff of the Legislature Secretariat shall continue to be governed by the rules or orders as in force at the commencement of this Act.

(3) In all matters regulating the conditions of service of the officers of the Secretariat for which no provision or insufficient provision has been made in the rules made under this Act, the officers shall be governed by such rules as are applicable to the officers in corresponding posts in the Secretariat of the State Government, subject to such modifications variations or exceptions in such rules as the Speaker may, by order, from time to time specify.

Explanation.—For the purposes of this section if any question arises as to which post in the Secretariat of the State Government corresponds to which particular post in the Secretariat, the decision of the Speaker shall be final.

Superin-
tendence
and
disciplinary
control.

10. The officers shall be subject to the superintendence and disciplinary control of the Speaker ;

Provided, that the Speaker may, by general or special order, delegate to the Secretary or any other officer any of his powers in this regard.

Penalties.

11. The following penalties may, for good and sufficient reasons, be imposed on an officer, namely ;

- (i) censure ;
- (ii) withholding of increments or promotion ;
- (iii) recovery from pay of the whole or part of any pecuniary loss caused to the State by negligence or breach of orders ;
- (iv) reduction to a lower grade or post or to a lower time-scale or to a lower stage in a time scale ;
- (v) compulsory retirement ;
- (vi) removal from service in the Secretariat which shall not be disqualification for future employment under the Secretariat or the Government.
- (vii) dismissal from service in the Secretariat which shall ordinarily be a disqualification for future employment under the Secretariat or the Government.

Explanation.—The following shall not amount to a penalty within the meaning of this section :—

- (i) withholding of increments of an officer for failure to pass a departmental examination in accordance with the rules or orders governing the post or the terms of his appointment ;
- (ii) stoppage of an officer at the efficiency bar in the time scale on the ground of his unfitness to cross the bar ;

(iii) non-promotion whether in a substantive or officiating capacity of an officer, after consideration of his case, to a grade or post for promotion to which he is eligible ;

(iv) reversion to a lower grade or post of an officer officiating in a higher grade or post on the ground that he is considered, after trial, to be unsuitable for such higher grade or post or on administrative grounds unconnected with his conduct ;

(v) reversion to his permanent grade or post of an officer appointed on probation to another grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation ;

(vi) compulsory retirement of an officer in accordance with the provisions relating to his superannuation or retirement ;

(vii) termination of the services—

(a) of an officer appointed on probation during or at the end of the period of probation, in accordance with the terms of his appointment or the rules and orders governing probation ; or

(b) of a temporary officer in accordance with the rules applicable to him; or

(c) of an officer employed under an agreement, in accordance with the terms of such agreement.

12. Subject to the provisions of article 311 of the Constitution, the Speaker shall have the power to impose any of the penalties specified in section 11 on any officer ;

Punishing
authority.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer the power to impose any of the said penalties on any officer other than an officer of Class I.

of 1950.

13. Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1950 no order imposing on an officer any of the penalties specified in clauses (iv) to (vi) of section 11 shall be passed except after an inquiry held as far as may be in such manner as may be prescribed.

Procedure
before
punish-
ment.

14. (1) Every officer shall have a right to appeal to the Speaker against any order passed originally or on appeal by the Secretary imposing or confirming any penalty specified in section 11.

Appeal.

Provided that where an order is passed originally by any authority subordinate to the Secretary, an appeal against such order shall first lie to the Secretary.

(2) The orders of the Speaker, whether passed originally or on appeal, shall be final.

Provided that the Speaker may, of his own motion or on application, revise or rescind any order passed by him under this section.

(3) The period within which an appeal may be submitted, the authority to which an appeal against an order of suspension may be submitted, and all matters incidental thereto shall be such as may be prescribed.

Budget
Estimates.

15. (1) The budget estimates of the Secretariat shall be prepared by the Secretariat and sent to the Finance Department which shall normally accept the estimates without any change.

(2) In case, the Finance Department is unable to accept any of the proposals contained in the budget estimates and the matter cannot be resolved between the Secretariat and the Finance Department, it shall be placed before a meeting between the Speaker and the Minister of Finance.

(3) If the matter still remains unresolved, it shall be placed before a meeting of the Chief Minister, the Speaker and the Minister of Finance and the decision arrived at such meeting shall be final.

Financial
powers.

16. The Speaker shall have full financial powers in respect of the Secretariat within the budget grants of the Secretariat.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer any of his powers in this regard.

Provided further that such financial powers as are vested in a Secretary to the State Government shall be deemed to have been delegated by the Speaker to the Secretary in respect of the Secretariat.

Authenti-
cation of
orders and
issue of
Financial
sanctions.

17. (1) Orders of the Governor or Speaker relating to the Gujarat Legislative Assembly and orders of the Speaker relating to the Secretariat may, if necessary be authenticated by the Secretary and issued or published by him in such manner as the Speaker may, by general or special order, from time to time specify.

(2) All financial sanctions relating to the Secretariat shall be issued by the Secretary or by any other officer of the Secretariat to whom any such power is delegated by him.

Corres-
pondence
with State
Govern-
ment
etc.

18. All correspondence with the Department of the State Government and other outside authorities shall be carried on by the Secretary or other officers with the concerned Departments or authorities directly.

Power to
make
rules.

19. (1) The Speaker may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) The Speaker may, if he so considers necessary appoint a Committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under this Act.

20. Subject to the provisions of section 9 all matters not specifically provided for in this Act, whether incidental or ancillary to the provisions of this Act or otherwise, shall be regulated in accordance with such orders as the Speaker may, from time to time make.

Extraordinary powers.

21. All questions relating to the interpretation of the provisions of this Act and the rules made thereunder shall be referred to the Speaker whose decision thereon shall be final.

Interpretation.

22. Save as otherwise expressly provided in this Act, all rules corresponding to the provisions of this Act, and in force immediately before the commencement of this Act, are hereby repealed.

Repeal and saving.

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Article 187 of the Constitution provides for creation of a separate Secretariat for the Legislative Assembly. A provision is also made in this Article that the State Government shall enact a law for recruitment of employees and officers in the Legislature Secretariat and till such an act is made, the Governor shall frame rules for this purpose and carry on the administration accordingly. Thus, it is evident that the rules framed by the Governor under Article 187(3) of the Constitution are provisional.

Hence, this Bill is brought before the House in exercise of the powers conferred by the provisions of the Constitution, as it is essential to enact a law for recruitment and conditions of service of the staff of the Legislature Secretariat.

The function of the Legislative Assembly is to keep a watch and control over all matters of administration of the Government. Under Article 164(2) of the Constitution, the Council of Ministers shall be responsible to the Legislative Assembly. Thus, the function of the Government is to administer all matters falling within its jurisdiction, while the Legislature's function is to keep a watch and control over the administration of the Government and so the interests of both these authorities are mostly conflicting.

The Legislature Secretariat assists the Legislative Assembly in the working of the House and its committees as well. Thus, chief aim or purpose of the Legislature Secretariat is to serve the House and its Committees. The impartiality of such a Secretariat is a fundamental necessity and it is for this reason that a provision for a separate Secretariat for the Legislative Assembly has been made in the Constitution.

The Legislature Secretariat can perform its duties impartially only when it is independent and free from the control of the Government. Unfortunately, the administration of the Gujarat Legislature Secretariat is under the control of the Government which is evident from the provision of Rule 5 of its Recruitment Rules. This provision is as given below :—

"Speaker's Control over Secretarial Staff—

Subject to the ultimate authority of the Governor, the Speaker shall have full control over the Secretarial Staff and the administration of the Secretariat."

In all important matters such as recruitment and promotion of the employees in the Gujarat Legislature Secretariat, strength of the staff, pay-scales, standards of qualifications for recruitment, discipline, etc., the Government takes the final decision. As the Governor i. e. the Government has framed the rules of recruitment, they are so framed as to retain control of the Government over the Legislature Secretariat. However impartially such type of Secretariat may work, its performance will not be free from doubts and in these circumstances, it is natural that functioning of the Legislature Secretariat will be adversely affected.

It is true that acts for recruitment and conditions of service of the staff of the Legislature are yet not made by the Central and the State Legislatures. But, on going through the rules framed by the President at the Centre and by the Governors in some States, it appears that in respect of all important matters such as strength of the staff, standards of qualifications, discipline, etc., Speaker of the Legislative Assembly is given adequate autonomy. Secretariats of the Parliament of India and those of Bihar, Uttar Pradesh, Kerala, Pondicherry, etc. States have no rule similar to Rule 5 of recruitment rules of Gujarat Legislature Secretariat. Hence they have separate independent Secretariats for their legislatures in the true sense of the term, while in Gujarat there is a separate Secretariat for the Legislature and yet the Government or its Officers take the final decisions in the matters of its administration.

The first Speaker of this country, Hon'ble Shri Vitthalbhai Patel had struggled hard with the British Rule and succeeded in keeping his Secretariat free from the interference of the Government. Thereafter, Hon'ble Shri Mavlankar had also protected and preserved the independence of the Lok Sabha Secretariat. He had categorically stated that if an employee or an officer of Lok Sabha is required to depend on the Government for his promotion, he cannot perform his duties impartially. Thus, Secretariats of the Parliament are independent since the independence of our country. Thereafter, secretariats of many State legislatures have also become independent.

Functioning of the Legislative Assembly is altogether of a different nature. The staff of the legislature can attain efficiency after a long training and experience for many years in the field of legislative work. Such an experienced staff is not available anywhere else and always there is dearth of such skilled staff or officers. Rules of recruitment and conditions of service of the staff in the Lok Sabha and Rajya Sabha Secretariats are framed mostly on the basis of the recommendations made by the Members of the Committee of the House. The status and the dignity of these Secretariats have been recently raised by making the pay-scales and the status of the Secretary-Generals equivalent to those of the Officers holding the highest posts in the Central Government.

It is really an unfortunate fact that the Head of the Gujarat Legislature Secretariat is not given as much autonomy as is given to the Heads of Boards/Corporations of the Government, even when it is enjoying a separate status under the Constitution of India. Though such public undertakings of the Government are run by government money, the public undertaking concerned decides the matters such as structure of its staff, the nature and the strength of the staff and its recruitment rules, whereas the Government takes such decisions for the Legislature Secretariat. Such a situation is highly deplorable and appears to be a hindrance in the growth of parliamentary democracy.

In all these circumstances, the autonomy of Gujarat Legislature Secretariat is of prime importance to enable it to give its efficient and impartial services to the House and its Committees. In the absence of such autonomy, the House or its committees cannot keep effective watch and control over the functions of the government. This Bill is brought before the House for its consideration for the purpose of achieving this object.

Dated the 12th October, 1990.
Gandhinagar.

VITHALBHAI SHAH,
M.L. A. S.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (b) of clause 4, empowers the speaker to annexion posts and categories in addition to those referred in clause (a).

Sub-clause (2) of clause 5, empowers the Speaker to make rules for specifying methods for filling posts, determining proportion of vacancies to be filled and to specify the class of officers and conditions for promotion.

Clause 6 empowers the Speaker to make rules for prescribing qualifications for recruitment.

Clause 7 empowers the Speaker to make appointments to the posts in the Secretariat.

The proviso to clause 8 empowers the Speaker to extend or reduce period of probation upto one year.

Sub-clause (1) of clause 9 empowers the Speaker to make rules regarding the pay, pension and other conditions of service of the officers.

Sub-clause (3) of clause 9 empowers the Speaker to specify modifications variations or exceptions subject to which the officers of the Secretariat shall, be governed a case of non-provision or insufficient provision made in the rules made under the said Act.

V-Ex. 18-3

Clause 12 of the Bill empowers the Speaker to impose on any officer any of the penalties specified in clause 11.

Clause 13 empowers the Speaker to prescribe manner for holding inquiry before imposing any penalty on an officer.

The proviso to sub-clause (2) of clause 14 empowers the Speaker to revise or rescind any order passed by him under the clause.

Sub-clause (3) of clause 14 empowers the Speaker to prescribe the period within which and the authority to which an appeal against the order of suspension may be submitted and the prescribe all matters incidental thereto.

Sub-clause (1) of clause 17 empowers the Speaker to specify the manner for authentication and issuance of orders of the Governor or the speaker by the Secretary.

Sub-clause (1) of clause 19 empowers the Speaker to make rules for carrying out the purposes of the Act.

Sub-clause (2) of clause 19 empowers the Speaker to appoint a committee of the Gujarat Legislative Assembly to advise in regard to the rules to be made under the Act.

Clause 20 empowers the Speaker to make orders in respect of matters incidental or ancillary and for all matters not specifically provided for in the Act.

The delegation of Legislative powers as aforesaid is necessary and of normal character.

Dated the 12th October, 1990.

Gandhinagar.

(Signed)

VITHALBHAI SHAH,
M.L.A."

Gandhinagar.

Dated the 14th February, 1991.

P. N. THAKKER,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXI] TUESDAY, FEBRUARY 19, 1991/MAGHA 30, 1912

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT ADVOCATES WELFARE FUND BILL, 1991.

GUJARAT BILL NO. 19 OF 1991.

A BILL

to provide for the constitution of an Advocates Welfare Fund and utilisation thereof for payment of certain retirement and other benefits to the advocates in the State of Gujarat.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the Gujarat Advocates Welfare Fund Act, 1991.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Administrative Committee" means the Administrative Committee constituted under section 5;

(b) "advocate" means a person whose name has been enrolled on the roll of advocates prepared and maintained by the Bar Council under section 17 of the Advocates Act;

(c) "Advocates Act" means the Advocates Act, 1961;

(d) "Advocates Welfare Fund" or "Fund" means the fund constituted under section 3 and maintained under the provisions of this Act;

(e) "Bar Association" means an association of advocates attached to any court or any tribunal or such other authority or person as is legally authorised to take evidence or to adjudicate or to decide any dispute in the State of Gujarat and recognised by the Bar Council under section 14;

(f) "Bar Council" means the Bar Council of Gujarat constituted under section 3 of the Advocates Act;

(g) "cessation of practice" in relation to an advocate means discontinuance of practice by the advocate by taking up any employment, trade, calling or other similar engagement or discontinuance of practice on account of death;

(h) "dependants" means wife, husband, father, mother, unmarried daughter and minor child or such of them as exist;

(i) "member of the Fund" means an advocate who is admitted to the benefits of the Fund and who continues to be a member thereof under the provisions of this Act;

(j) "nominee" means a person nominated in the prescribed manner by a member of the Fund to receive the amount, which may be due to the member, from the Fund in the event of his death before the amount is paid to him;

(k) "prescribed" means prescribed by regulations;

(l) "regulations" means regulations made by the Bar Council under this Act;

(m) "retirement" means giving up of practice as an advocate which is communicated to and recorded by the Bar Council;

(n) "stamp" means the Gujarat Advocates Welfare Fund Stamp printed and distributed by the Bar Council under section 20 ;

(o) "standing" means the period of actual practice after the commencement of this Act;

(p) "suspension of practice" means suspension of practice as an advocate voluntarily or otherwise.

XXV of
1961.

CHAPTER II.

Constitution and management of Advocates Welfare Fund.

3. (1) The State Government shall constitute a fund called the Gujarat Advocates Welfare Fund.

Constitute
of Fund.

(2) There shall be credited to the Fund—

(a) an initial amount of rupees one lakh to be contributed by the Bar Council to the Fund ;

(b) all the amounts to be contributed by the Bar Council annually from the year 1991 onwards under sub-section (3);

(c) any other contribution made by the Bar Council;

(d) any voluntary donation or contribution to the Fund made by the Bar Council of India or any other Bar Council or any Bar Association;

(e) any voluntary donation made to the Fund by any advocate or his relatives;

(f) contributions paid by members of the Fund to the Fund under section 19;

(g) all sums received from the Life Insurance Corporation of India on the death of any member of the Fund under any Group Insurance Policy;

(h) any profit or dividend from the Life Insurance Corporation of India in respect of policies of Group Insurance of the members of the Fund;

(i) any interest or dividend or other return on any investment made of any part of the Fund.

(3) The Bar Council shall contribute to the Fund annually an amount at such rate not exceeding thirty per cent. of the enrolment fees realised by it as the Bar Council may from time to time think fit.

4. For the purpose of management and utilisation of the Fund under this Act, the Fund shall vest in the Bar Council and the Fund shall be held and applied by the Bar Council in accordance with the provisions of this Act and the regulations.

Bar Council
to manage
Fund.

Constitu-
tion of
administra-
tive
committee.

5. (1) There shall be an administrative committee, consisting of the following members, namely:—

- (a) The Advocate-General, Gujarat State. .. *Ex-Officio*
- (b) The Secretary and Remembrancer of Legal Affairs to Government of Gujarat, Legal Department. .. *Ex-Officio*
- (c) The Chairman of the Bar Council of Gujarat. .. *Ex-Officio*
- (d) The Chairman of the Executive Committee of the Bar Council. .. *Ex-Officio*
- (e) Three members to be nominated by the Bar Council from amongst its members. ..

(2) The powers, functions and duties of the Administrative Committee shall be as provided by this Act and by regulations.

Term of
office of
nominated
members of
Administra-
tive
Committee.

6. A person nominated as a member of an Administrative Committee under clause (e) of sub-section (1) of section 5 (hereinafter in sections 7, 8 and 9 referred to as "the nominated member") shall hold office for such period as may be prescribed or for the duration of his membership in the Bar Council whichever is less, unless he is removed under sub-section (2) of section 7 or resigns his office and his resignation is accepted by the Bar Council under section 8.

Disquali-
fication
and
removal of
nominated
members.

7. (1) A person shall be disqualified to be a nominated member if he—

- (a) is adjudged by a competent court to be of unsound mind; or
- (b) is adjudicated an insolvent and has not obtained his discharge or
- (c) is convicted of an offence which in the opinion of the State Government involves moral turpitude; or
- (d) has in the opinion of the State Government committed a breach of trust or where he is a member of the Fund committed persistent default in payment of his contribution to the Fund under section 19.

(2) The State Government may remove any nominated member who is or has become disqualified under sub-section (1) from his office as a member of the Administrative Committee:

Provided that no order removing any member shall be made unless that member and the Bar Council have been given an opportunity of being heard.

Resignation
by nominated
members.

8. A nominated member may resign his office by giving one month's notice in writing to the Bar Council and on such resignation being accepted by the Bar Council, the nominated member shall be deemed to have vacated his office.

9. A casual vacancy in the office of a nominated member occurring on account of death, resignation or removal of the member shall be filled up, as soon as may be, by nomination of a person by the Bar Council under clause (e) of sub-section (1) of section 5 and the person so nominated shall hold office so long as the member in whose place he is nominated would have been entitled to hold office, if the vacancy had not occurred.

Filling up
of casual
vacancies.

10. For carrying out the provisions of this Act the Bar Council may appoint such officers and servants on such terms and conditions as may be prescribed.

Appointment
of officers
and servants.

11. All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.

Amounts to
be paid out
of the Fund.

12. The Bar Council shall send to the State Government such periodical and annual reports as may be prescribed.

Periodical
and annual
reports to be
sent to
Government.

13. (1) The Bar Council shall cause to be maintained such books of account and other books in such form and in such manner as may be prescribed.

Maintenance
of accounts
and audit.

(2) The accounts of the Fund shall be audited annually by the Examiner of Local Fund Accounts or by any other person empowered by the State Government to perform the functions of an auditor under the Gujarat Local Fund Audit Act, 1963 as if the Fund were a local fund and the Bar Council were a local authority within the meaning of those expressions in the said Act.

Guj. XLIX
of 1963.

(3) After the account of the Fund is so audited, the Bar Council shall send a copy of the auditor's report and balance sheet to the State Government.

(4) The Bar Council shall comply with the report of the auditor and may issue such direction in that behalf to the Administrative Committee as it may think fit.

CHAPTER III.

Recognition and registration of Bar Associations.

14. (1) Any association of advocates known by any name functioning in any court or before any tribunal or before any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes may apply to the Administrative Committee in the prescribed form for recognition and registration.

Recognition
and registra-
tion of Bar
Association.

(2) Every application for recognition and registration shall be accompanied by the rules or by-laws of the Association, the names and addresses of the office bearers of the Association and an up-to-date list of the members of the Association showing the name, address, age, date of enrolment and the ordinary place of practice of each member.

(3) The Administrative Committee may after such enquiry as it deems necessary recognise or refuse to recognise the association.

(4) On recognition of such an association, Administrative Committee shall issue a certificate of registration in the prescribed form.

(5) Any association aggrieved by the decision of the Administrative Committee under sub-section (3), may prefer an appeal against the said decision to the Bar Council.

(6) The appeal shall be accompanied by--

(a) the order appealed against;

(b) a fee of one hundred rupees which shall not be refunded.

(7) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.

(8) The decision of the Bar Council on the appeal shall be final.

Duties of
Bar Association.

15. (1) Every Bar Association shall, on or before the 31st January every year, intimate to the Bar Council a list of its members as on the 31st December of the previous year.

(2) Every Bar Association shall intimate to the Bar Council--

(a) any change of the office bearers of the Association within thirty days from such change;

(b) any change in the membership, including admissions and re-admissions in sixty days of such change;

(c) the death, retirement, suspension, cessation of practice of any of its members within ninety days from the date of occurrence thereof; and

(d) such other matters as may be prescribed or required by the Bar Council from time to time.

CHAPTER IV.

Membership in the Fund and payment therefrom.

Membership
of Fund.

16. (1) Any Advocate who permanently resides in the State of Gujarat and practises before any Court or any Tribunal, or any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes in the State of Gujarat and is a member of a Bar Association recognised under section 14 may apply in the prescribed form to the Administrative Committee for admission as a member of the Fund.

(2) On receipt of an application under sub-section (1), the Administrative Committee shall make such inquiries as it deems fit and either admit the applicant to the Fund or for reasons to be recorded in writing reject the application:

Provided that no order rejecting the application shall be passed unless the applicant has been given an opportunity of being heard.

(3) The applicant whose application is rejected under sub-section (2) may prefer an appeal to the Bar Council.

(4) The appeal shall be accompanied by the order appealed against.

(5) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.

(6) The decision of the Bar Council on the appeal shall be final.

17. (1) Every member of the Fund shall, at the time of admission to the membership of the Fund, make a nomination appointing a nominee in the prescribed manner.

Member to appoint nominee and to give notice of cessation of practice, etc.

(2) A member may at any time cancel such nomination by sending a notice in writing to the Administrative Committee, provided that a member shall alongwith such notice send a fresh nomination.

(3) Every member who voluntarily suspends practice or ceases to practise or retires shall, within sixty days of such suspension, cessation or retirement, intimate that fact to the Administrative Committee.

18. (1) A member of the Fund shall, on cessation of practice be, entitled to receive from out of the Fund an amount at the rate specified in sub-section (4).

Payment of retiring benefit from Fund.

(2) In the event of death of a member, the amount shall be paid to his nominee, or, where there is no nominee, to his dependants:

Provided that Administrative Committee may call for a succession certificate if circumstances so demand.

(3) A member of the Fund may opt for retirement benefits at any time after five years of his admission as a member of the Fund, but he shall be eligible for re-admission to the Fund as a new member subject to such conditions as may be prescribed.

(4) Payments shall be made under this section at the rate specified in the Schedule.

(5) An application for payment from the Fund shall be preferred to the Administrative Committee in the prescribed form.

(6) An application received under sub-section (5) shall be disposed of by the Administrative Committee after such inquiry as it deems necessary.

CHAPTER V.

Contribution by members to the Fund and the mode of payment thereof.

Advocates to
pay contribu-
tion to Fund.

19. (1) Every member of the Fund shall pay to the Fund a contribution at the rate and in the manner hereinafter provided.

(2) The contribution to be paid by the member shall be at the rate of four rupees in respect of every *Vakalatnama* presented by him to any court, including the High Court, tribunal or other authority or person in the State before which or whom the member is entitled to practise under section 30 of the Advocates Act.

(3) The payment of contribution shall be indicated by affixing to the *Vakalatnama* a stamp of the value of four rupees specially printed under this Act.

Printing and
sale of
stamps.

20. (1) The Bar Council shall cause to be printed and distributed the Gujarat Advocates Welfare Fund Stamps each of the value of four rupees with the Bar Council Emblem and its value inscribed thereon.

(2) The stamps shall be of the size 2 c. m. \times 4 c. m. and be sold only to the members of the Fund.

(3) The custody of the stamps shall be with the Bar Council.

(4) The Bar Council shall control the distribution and sale of the stamps through the Bar Associations.

(5) The Bar Council and Bar Associations shall keep proper accounts of the stamps in such form and in such manner as may be prescribed.

(6) The Bar Associations shall purchase the stamps from the Bar Council after paying the value thereof less ten per cent. of such value towards incidental expenses.

(7) The Bar Council shall, after deducting from the sale proceeds of stamps the actual cost of printing and distribution of stamps, pay the amount realised by sale of stamps to the Administrative Committee within fifteen days after the end of every quarter.

Vakalatnama
not
acceptable
unless
stamped.

21. No member of the Fund shall present to any court, tribunal or other authority or person his *Vakalatnama* unless a stamp is fixed to it under sub-section (3) of section 19 and no court, tribunal or other authority or person shall accept the *Vakalatnama* so presented unless it is so stamped.

Value of
stamps not
to be
included
in costs and
not to be
collected
from clients.

22. (1) The value of the stamp shall not be included in calculating the costs in the case.

(2) The value of the stamp shall not be collected by the member from his client.

(3) If any member contravenes the provisions of sub-section (2), he shall be liable to the Bar Council for appropriate action.

Cancellation
of stamps.

23. Every stamp affixed to a *Vakalatnama* under sub-section (3) of section 19 shall be cancelled in the manner provided in section 42 of the Bombay Court-fees Act, 1959.

Bom.
XXXVI of
1959.

CHAPTER VI.

Miscellaneous.

24. The Administrative Committee may, for the welfare of the members of the Fund,—

Group Life
Insurance for
members and
giving other
benefits.

- (a) obtain from the Life Insurance Corporation of India policies of Group Life Insurance for the members of the Fund;
- (b) provide for medical and educational facilities for the members of the Fund and their dependants including an insurance for that purpose;
- (c) provide for such other benefits and amenities as may be prescribed.

25. (1) Notwithstanding anything contained in any other law for the time being in force, the interest of any member in the Fund, or the right of a member of the Fund or his nominee, dependants or legal heirs to receive any amount from the Fund, shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any court, tribunal or other authority or person.

Restriction
on alienation,
attachment,
etc. of
interest of
member in
the Fund.

(2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or legal heirs.

Explanation.— For the purpose of this section, 'creditor' includes the State or any official assignee or receiver appointed under any law for the time being in force.

26. No act or proceeding of the Administrative Committee shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee.

Vacancy in
Administra-
tive Commi-
tee not to
invalidate
acts or
proceedings.

27. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any regulation.

Protection
of action
taken in
good faith.

(2) No suit or other legal proceeding shall lie against the Administrative Committee or the Bar Council for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any regulation.

28. No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Administrative Committee or the Bar Council.

Bar of
jurisdiction
of Civil
Court.

Administrative Committee and Bar Council to have powers of Civil Courts.

Power to make regulations.

Power to amend Schedule in certain circumstances

29. The Administrative Committee and the Bar Council shall be competent to take evidence on oath and shall exercise all powers of a Civil Court in the summoning of witnesses and the production of documents.

30. (1) The Bar Council may, with the previous approval of the State Government, by notification in the *Official Gazette*, make regulations for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulation may be made to provide for all matters expressly required or allowed by this Act to be prescribed by the regulations.

(3) All regulations made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall there upon take effect.

31. (1) If the Bar Council recommends to the State Government to increase the rate of benefit specified in the Schedule, the State Government may, by notification in the *Official Gazette*, amend the said Schedule so as to increase the rate of benefit as recommended and on the issue of such notification, the said Schedule shall be deemed to be amended accordingly.

(2) Every such notification shall, as soon as possible after it is issued, be laid before the State Legislature.

SCHEDULE

(See sub-section (4) of section 18)

Period of standing 1	Rate of benefit 2
30 Years' standing	Rs. 45000
29 Years' standing	Rs. 43500
28 Years' standing	Rs. 42000
27 Years' standing	Rs. 40500
26 Years' standing	Rs. 39000
25 Years' standing	Rs. 37500

1	2
24 Years' standing	Rs. 36000
23 Years' standing	Rs. 34500
22 Years' standing	Rs. 33000
21 Years' standing	Rs. 31500
20 Years' standing	Rs. 30000
19 Years' standing	Rs. 28500
18 Years' standing	Rs. 27000
17 Years' standing	Rs. 25500
16 Years' standing	Rs. 24000
15 Years' standing	Rs. 22500
14 Years' standing	Rs. 21000
13 Years' standing	Rs. 19500
12 Years' standing	Rs. 18000
11 Years' standing	Rs. 16500
10 Years' standing	Rs. 15000
9 Years' standing	Rs. 13500
8 Years' standing	Rs. 12000
7 Years' standing	Rs. 10500
6 Years' standing	Rs. 9000
Upto 5 Years' standing	Rs. 7500

STATEMENT OF OBJECTS AND REASONS

There has been a demand from the Bar Council of Gujarat for having a law providing for the social security and other benefits to the members of the legal profession. Accordingly, it is proposed to undertake legislation providing for the constitution of the Advocates Welfare Fund and utilisation thereof for payment of certain retirement and other benefits to the advocates in the State of Gujarat. This Bill seeks to achieve that object. Important clauses of the Bill are explained in the following notes on clauses:—

Clause 3.—This clause empowers the State Government to constitute the Gujarat Advocates Welfare Fund to which shall be credited contributions made by the Bar Council, voluntary donations or contributions made by the Bar Council of India or any other Bar Council or Bar Association and any voluntary donation made by an advocate or his relatives and contributions paid by Advocates to the Fund, etc.

Clause 4.—This clause provides for vesting of the Fund in the Bar Council which the Bar Council shall hold and apply in accordance with the provisions of this Act and the regulations.

Clause 5.—This clause provides for the constitution of an Administrative Committee the powers, functions and duties of which shall be as provided by this Act and by regulations.

Clause 6.—This clause provides for the tenure of the nominated members of the Administrative Committee.

Clause 7.—This clause provides for disqualification and removal of nominated members.

Clause 8.—This clause makes provision regarding resignation by nominated members.

Clause 9.—This clause provides for filling up of casual vacancies.

Clause 10.—This clause provides for appointment of officers and servants by the Bar Council for carrying out the provisions of this Act.

Clause 11.—This clause provides that all amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.

Clause 12.—This clause requires the Bar Council to send to the State Government such periodical and annual reports as may be prescribed by regulations made under this Act.

Clause 13.—This clause provides for maintenance of account and audit.

Clause 14.—This clause provides for recognition and registration of Bar Associations.

Clause 15.—This clause provides for the duties of Bar Associations.

Clause 16.—This clause provides for the membership of the Fund. Any advocate who permanently resides in the State and practises before any Court or any tribunal or any other authority or person legally authorised to take evidence or to adjudicate or decide any dispute in the State and is a member of a Bar Association is eligible to make an application in the prescribed form for admission as a member of the Fund. This clause further provides for the procedure of entertaining application and appeal in case the application is rejected. The decision of Bar Council on the appeal is to be final.

Clause 17.—This clause requires the member to the Fund to appoint nominee. It also requires every member of the Fund who voluntarily suspends practice or ceases to practise or retires, to intimate that fact to the Administrative Committee within sixty days from such cessation, suspension or retirement.

Clause 18.—This clause provides for payment of retiring benefits from the Fund. A member of the Fund becomes entitled to receive out of the Fund an amount at the rate specified in the Schedule to the Act. In the event of the death of the member, this clause provides that the amount shall be paid to his nominee or where there is no nominee to his dependants. This clause also provides for the option to a member of the Fund for retirement benefits at any time after five years of his admission as a member of the Fund, but the member is made eligible for re-admission to the Fund as a new member subject to certain conditions that may be prescribed by regulations.

Clause 19.—Under this clause, every advocate is required to pay to the Fund a contribution at the rate of four rupees in respect of every *Vakalatnama* presented by him to any court, tribunal or other authority, or person in the State before whom he is entitled to practise. The payment of the contribution shall be indicated by affixing to the *Vakalatnama* a stamp of the value of four rupees specially printed under this Act.

Clause 20.—This clause provides for printing of stamps and sale thereof by the Bar Council.

Clause 21.—This clause prohibits a member of the Fund to present *Vakalatnama* unless it is stamped and provides that the *Vakalatnama* shall not be acceptable unless it is so stamped.

Clause 22.—This clause provides that the value of stamps shall not be included in the costs in the case and shall not be collected from clients.

Clause 23.—This clause provides for the manner of cancellation of stamps.

Clause 24.—This clause provides for the Group Life Insurance for members and for giving other benefits to them and their dependants.

Clause 25.—This clause provides for restriction on alienation, attachment, etc. of interest of member in the Fund.

Clause 28.—This clause provides for bar of jurisdiction of civil courts.

Clause 29.—This clause provides for Administrative Committee and Bar Council to have powers of a civil court.

Clause 30.—This clause empowers the Bar Council with the previous approval of the State Government, to make regulations and the regulations so made shall be laid before the State Legislature etc.

Clause 31.—This clause empowers the State Government, on the recommendation of the Bar Council, to increase the rate of benefits specified in the Schedule by notification in the *Official Gazette*, and on the issue of such notification, the Schedule shall be deemed to be amended accordingly.

Schedule.—The Schedule specifies the rate of benefit payable to a member of the Fund on cessation of practice, which shall be Rs. 7,500 upto five years' standing of the member and Rs. 45,000 for thirty years of such standing.

SHASHIKANT LAKHANI

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of powers of legislative character in the following respects :—

Clause 1.—Sub-clause (3) of this clause empowers the State Government to appoint the date on which the Act shall come into force.

Clause 4.—This clause empowers the Bar Council to hold the Fund and apply the same in accordance with the provisions of the Act and the regulations.

Clause 5.—Sub-Clause (2) of this clause empowers the Bar Council to prescribe by regulations the powers, functions and duties of the Administrative Committee.

Clause 6.—This clause empowers the Bar Council to prescribe by regulations the tenure of the members nominated by the Bar Council, on the Administrative Committee.

Clause 10.—This clause empowers the Bar Council to prescribe by regulations the terms and conditions of the officers and servants appointed for carrying out the provisions of this Act.

Clause 12.—This clause empowers the Bar Council to prescribe by regulations the periodical and annual reports to be sent by it to the State Government.

Clause 13.-Sub-clause (1) of this clause empowers the Bar Council to prescribe by regulations the form and manner in which the books of accounts and other books shall be caused to be maintained by the Bar Council.

Clause 14.-Sub-clause (1) of this clause empowers the Bar Council to prescribe by regulations the form in which any association of Advocates may apply to the Administrative Committee for recognition and registration.

Sub-clause (4) of this clause empowers the Bar Council to prescribe a certificate of registration, which shall be issued by the Administrative Committee on recognition of the Bar Association.

Clause 15.-Sub-clause (2)(d) of this clause empowers the Bar Council to prescribe by regulations other matters which every Bar Association shall intimate to the Bar Council.

Clause 16.-Sub-clause (1) of this clause empowers the Bar Council to prescribe by regulations the form in which any advocate permanently residing in the State may apply to the Administrative Committee for admission as a member of the Fund.

Clause 17.-Sub-clause (1) of this clause empowers the Bar Council to prescribe by regulations the manner in which every member of the Fund shall make nomination appointing a nominee.

Clause 18.-Sub-clause (3) of this clause empowers the Bar Council to prescribe by regulations the conditions subject to which a member of the Fund shall be eligible for re-admission to the Fund as a new member.

Sub-clause (5) of this clause empowers the Bar Council to prescribe by regulations the form in which application for payment from the Fund shall be preferred to the Administrative Committee.

Clause 20.-Sub-clause (5) of this clause empowers the Bar Council to prescribe by regulations the form and the manner in which accounts of stamps shall be kept.

Clause 24.-Sub-clause (c) of this clause empowers the Bar Council to prescribe by regulations other amenities and benefits which the Administrative Committee may provide for the welfare of the members of the Fund.

Clause 30.-This clause empowers the Bar Council to make with the previous approval of the State Government regulations to carry out the purposes of this Act.

Clause 31.-Sub-clause (1) of this clause empowers the State Government, if the Bar Council recommends, to amend the Schedule so as to increase the rate of benefit specified in the Schedule.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 18th February, 1991.

SHASHIKANT LAKHANI

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,

Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 19th February, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] MONDAY, FEBRUARY 25, 1991/PHALGUNA, 6, 1912

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V.

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under
 the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 1991.

GUJARAT BILL NO. 20 OF 1991.

A BILL

*to authorise payment and appropriation of certain further sums from and out
 of the Consolidated Fund of the State of Gujarat for the services of the
 year ending on the thirty-first day of March, 1991.*

It is hereby enacted in the Forty-second Year of the Republic of India as
 follows :—

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, Short
 title. 1991.

Issue of Rs.
8,48,48,77,000
from and
out of the
Consolidated
Fund of the
State of
Gujarat for
the financial
year 1990-91.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of eight hundred forty-eight crores, forty-eight lakhs, and seventy-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 1991, in respect of the services and purposes specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2		3		
		Rs.	Rs.	Rs.	
1.	Agriculture, Co-operation and Rural Development Department	Revenue	2,28,000	..	2,28,000
2.	Agriculture	Revenue	41,56,56,000	..	41,56,56,000
		Capital	1,90,45,000	..	1,90,45,000
3.	Minor Irrigation, Soil Conservation and Area Development	Revenue	5,49,47,000	2,000	5,49,49,000
4.	Animal Husbandry and Dairy Development	Revenue	75,04,000	..	75,04,000
		Capital	2,54,23,000	..	2,54,23,000
5.	Fisheries	Revenue	1,12,95,000	7,00,000	1,19,95,000
		Capital	40,80,000	..	40,80,000
6.	Co-operation	Revenue	77,35,18,000	..	77,35,18,000
		Capital	1,81,74,000	..	1,81,74,000
7.	Other Expenditure pertaining to Agriculture, Cooperation and Rural Development Department	Capital	77,27,000	..	77,27,000
8.	Education Department	Revenue	17,27,000	..	17,27,000
9.	Education	Revenue	24,78,00,000	4,05,10,000	28,83,10,000
10.	Other Expenditure pertaining to Education Department	Revenue	93,52,000	..	93,52,000
		Capital	7,65,26,000	..	7,65,26,000
11.	Finance Department	Revenue	7,85,000	..	7,85,000

No. of Vote/ Appro- priation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
12.	Tax Collection Charges (Finance Department)	Revenue 1,000	..	1,000
13.	Treasury and Accounts Administration	Revenue 2,000	..	2,000
14.	Pensions and other Retirement Benefits	Revenue 14,12,96,000	..	14,12,96,000
15.	Other Expenditure pertaining to Finance Department	Revenue 2,000	..	2,000
		Capital 55,45,000	..	55,45,000
16.	Repayment of Debt pertaining to Finance Department and its Servicing	Revenue ..	2,000	2,000
		Capital ..	3,10,87,36,000	3,10,87,36,000
17.	Food and Civil Supplies Department	Revenue 2,27,000	..	2,27,000
18.	Civil Supplies	Revenue 2,91,000	..	2,91,000
19.	Food	Revenue 1,000	..	1,000
20.	Other Expenditure pertaining to Food and Civil Supplies Department	Capital 11,10,000	..	11,10,000
22.	Forests	Revenue 1,00,56,000	..	1,00,56,000
		Capital 3,59,99,000	..	3,59,99,000
24.	Other Expenditure pertaining to Forest and Environment Department	Capital 23,83,000	..	23,83,000

No. of Vote/ Appro- priation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consoli- dated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
25. Governor	Revenue	..	4,32,000	4,32,000
26. Council of Ministers	Revenue	32,80,000	..	32,80,000
27. Elections	Revenue	76,00,000	..	76,00,000
28. Public Service Commission	Revenue	..	10,58,000	10,58,000
29. General Administration Department	Revenue	52,86,000	..	52,86,000
30. Economic Advice and Statistics	Revenue	3,71,000	..	3,71,000
31. Other Expenditure pertaining to General Administration Department	Revenue	15,76,000	..	15,76,000
	Capital	98,39,000	..	98,39,000
32. State Legislature	Revenue	69,000	10,000	79,000
33. Loans and Advances to Govern- ment servants in Gujarat Legis- lature Secretariat	Capital	5,02,000	..	5,02,000
35. Medical and Public Health	Revenue	18,06,72,000	3,17,000	18,09,89,000
36. Family Welfare	Revenue	1,000	..	1,000
37. Water Supply	Revenue	8,32,00,000	..	8,32,00,000
	Capital	1,30,00,000	..	1,30,00,000
38. Other Expenditure pertaining to Health and Family Welfare Department	Revenue	67,20,000	3,000	67,23,000
	Capital	3,12,80,000	..	3,12,80,000
39. Home Department	Revenue	5,42,000	..	5,42,000

V-Extra-20-2

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2			
		Rs.	Rs.	Rs.
40.	Police	Revenue 12,96,84,000	..	12,96,84,000
41.	Jails	Revenue 68,12,000	..	68,12,000
42.	Transport	Revenue ..	1,000	1,000
		Capital 48,77,00,000	..	48,77,00,000
43.	Other Expenditure pertaining to Home Department	Revenue 59,83,000	63,000	60,46,000
		Capital 3,63,87,000	..	3,63,87,000
44.	Industries, Mines and Energy Department	Revenue 11,17,000	..	11,17,000
46.	Stationery and Printing	Revenue 3,12,28,000	..	3,12,28,000
47.	Industries	Revenue 42,53,72,000	..	42,53,72,000
		Capital 14,00,33,000	..	14,00,33,000
48.	Mines and Minerals	Revenue 2,61,30,000	..	2,61,30,000
49.	Energy Projects	Revenue 15,20,00,000	..	15,20,00,000
		Capital 15,00,01,000	..	15,00,01,000
50.	Other Expenditure pertaining to Industries, Mines and Energy Department	Capital 56,70,000	..	56,70,000
51.	Information, Broadcasting and Tourism Department	Revenue 3,06,000	2,000	3,08,000
52.	Information and Publicity	Revenue 9,01,000	..	9,01,000
53.	Tourism	Capital 1,02,90,000	..	1,02,90,000
54.	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue 2,50,000	..	2,50,000
		Capital 11,05,000	..	11,05,000
55.	Labour and Employment Department	Revenue 2,15,000	..	2,15,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted.	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
56.	Labour and Employment	Revenue 1,000	..	1,000
57.	Other Expenditure pertaining to Labour and Employment Department	Capital 36,70,000	..	36,70,000
59.	Administration of Justice	Revenue 2,000	46,12,000	46,14,000
60.	Other Expenditure pertaining to Legal Department	Capital 40,47,000	..	40,47,000
61.	Narmada and Water Resources Department	Revenue 10,72,000	..	10,72,000
62.	Narmada Development Scheme	Capital 2,000	..	2,000
63.	Irrigation and Soil Conservation	Revenue 3,94,74,000	77,57,000	4,72,31,000
		Capital 14,98,47,000	1,56,73,000	16,55,20,000
64.	Other Expenditure pertaining to Narmada and Water Resources Department.	Revenue 2,20,000	2,05,38,000	2,07,58,000
		Capital 133,30,000	..	1,33,30,000
65.	Panchayats and Rural Housing Department	Revenue 71,000	..	71,000
66.	Community Development	Revenue 12,28,55,000	..	12,28,55,000
67.	Rural Housing	Revenue 2,96,95,000	8,00,000	3,04,95,000
		Capital 1,000	..	1,000
68.	Compensation and Assignments	Revenue 1,65,47,000	..	1,65,47,000
69.	Other Expenditure pertaining to Panchayats and Rural Housing Department.	Revenue 3,10,44,000	..	3,10,44,000
		Capital 3,23,49,000	..	3,23,49,000
70.	Revenue Department	Revenue 15,78,000	..	15,78,000

No. of Vote/ Appro- pria- tion	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consoli- dated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
71.	Tax Collection Charges (Revenue Department)	Revenue 2,000	15,000	17,000
72.	District Administration	Revenue 71,33,000	..	71,33,000
73.	Relief on account of Natural Calamities	Capital 4,10,00,000	..	4,10,00,000
74.	Dangs District	Revenue 80,93,000	..	80,93,000
75.	Compensation and Assignments	Revenue 1,01,78,000	12,60,000	1,14,38,000
		Capital ..	33,85,000	33,85,000
76.	Other Expenditure pertaining to Revenue Department	Revenue 3,62,35,000	..	3,62,35,000
		Capital 44,07,000	..	44,07,000
77.	Roads and Buildings Department	Revenue 13,75,000	..	13,75,000
78.	Non-Residential Buildings	Revenue 16,61,43,000	6,70,000	16,68,13,000
		Capital 93,98,000	..	93,98,000
79.	Residential Buildings	Revenue 82,79,000	26,000	83,05,000
		Capital 49,49,000	..	49,49,000
80.	Roads and Bridges	Revenue 18,35,22,000	26,72,000	18,61,94,000
		Capital 5,40,47,000	31,54,000	5,72,01,000
81.	Ports	Revenue 3,10,00,000	..	3,10,00,000
82.	Gujarat Capital Construction Scheme	Capital 9,43,98,000	..	9,43,98,000
83.	Other Expenditure pertaining to Roads and Buildings Department	Revenue 1,30,35,000	64,88,000	1,95,23,000
		Capital 61,13,000	..	61,13,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
85.	State Excise Revenue	19,62,000	..	19,62,000
86.	Social Security and Welfare Revenue	4,11,26,000	..	4,11,26,000
87.	Welfare of Schedule Tribes Revenue	1,89,70,000	..	1,89,70,000
	Capital	44,50,000	..	44,50,000
88.	Other Expenditure pertaining to Social Welfare and Tribal Development Department Capital	17,02,000	..	17,02,000
89.	Special Component Plan for Scheduled Castes Revenue	10,09,29,000	..	10,09,29,000
	Capital	56,01,000	..	56,01,000
90.	Tribal Area Sub-Plan Revenue	2,99,16,000	15,000	2,99,31,000
	Capital	4,000	1,08,76,000	1,08,80,000
91.	Urban Development and Urban Housing Department Revenue	1,48,000	..	1,48,000
92.	Urban Housing Revenue	14,000	2,000	16,000
	Capital	66,07,000	..	66,07,000
93.	Urban Development Revenue	9,06,77,000	2,000	9,06,79,000
95.	Other Expenditure pertaining to Urban Development and Urban Housing Department Revenue	4,81,000	..	4,81,000
	Capital	15,75,000	..	15,75,000
	Revenue	3,73,57,80,000	8,79,57,000	3,82,37,37,000
	Capital	1,51,93,16,000	3,14,18,24,000	4,66,11,40,000
	Grand Total	5,25,50,96,000	3,22,97,81,000	8,48,48,77,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 1991.

The amounts are shown below :—

(a) Revenue Expenditure	Rs. 3,82,37,37,000
(b) Capital Expenditure	Rs. 4,66,11,40,000
Total	Rs. 8,48,48,77,000

Dated the 25th February, 1991.

CHHABILDAS MEHTA.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 25th February, 1991.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXII] TUESDAY, MARCH 5, 1991/PHALGUNA, 14, 1912

Separate paging is given to this Part in order that it
as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 5th March, 1991 by Dr. Dineshbhai Parmar, Minister of State for Health, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

“THE GUJARAT REGULATION OF PRE-NATAL DIAGNOSTIC TESTS BILL, 1991.

GUJARAT BILL NO. 21 OF 1991.

A BILL

to prohibit use or carrying out of pre-natal diagnostic tests for the purpose of determination of sex of a foetus; to regulate use or carrying out of certain pre-natal diagnostic tests for certain purposes and to provide for matters connected therewith or incidental thereto.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Regulation of Pre-natal Diagnostic Tests Act, 1991.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and the other provisions of this Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

21-1

V-Extra-21-1

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "advertisement" includes any notice, circular, label, wrapper or other document and any announcement made orally or by means of producing or transmitting light, sound or smoke;

(b) "designated test" means any of the following pre-natal diagnostic tests, namely:—

(i) Amniocentesis,

(ii) Chorion villi biopsy,

(iii) Foetoscopy,

(iv) Amnioscopy,

(v) any other test which the State Government may, by notification in the *Official Gazette*, specify;

(c) "Gynaecologist" means a person who has acquired a post-graduate degree in the subject of Obstetrics and Gynaecology of any University established by law in India;

(d) "Inspector" means an Inspector appointed under section 6;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "specified test" means any of the following pre-natal diagnostic tests, namely:—

(i) any of the designated tests mentioned in sub-clauses (i) to (iv) of clause (b),

(ii) any other test specified as a designated test by the State Government under sub-clause (v) of clause (b),

(iii) Sonography,

(iv) any other test which the State Government may, by notification in the *Official Gazette*, specify.

Prohibition
of use of
specified
test.

3. For the purpose of determination of sex of a foetus irrespective of whether it is intended to terminate pregnancy under the Medical Termination of Pregnancy Act, 1971 or not— 34 of 1971.

(a) no person shall use or carry out,

(b) no person shall aid or abet the using or carrying out of,

(c) no female shall submit to; and

(d) no person shall aid or abet submission of a female to, any specified test.

4. No person shall take any part in the publication of any advertisement offering to determine the sex of a foetus.

Prohibition
of adverti-
sement offer-
ing to deter-
mine sex of
foetus.

5. (1) No person, other than a specified Gynaecologist or an authorised Head of Unit, shall use or carry out any designated test.

Regulation
of use of
designated
test.

(2) No specified Gynaecologist and no authorised Head of Unit shall use or carry out designated test at any place other than the Government Hospital attached to a medical college in which he is employed as such Gynaecologist or Head of Unit.

(3) The specified Gynaecologist or authorised Head of Unit shall not use or carry out any designated test for any purpose other than the purpose of detection of any of the following abnormalities, namely:—

(i) Chromosomal abnormalities,

(ii) Genetic metabolic diseases,

(iii) Haemoglobinopathy,

(iv) Sex-linked genetic diseases,

(v) Congenital anomalies,

(vi) Rh. incompatibility,

(vii) Any other abnormality or disease which the State Government may, by notification in the *Official Gazette*, specify.

(4) The specified Gynaecologist or the authorised Head of Unit shall not use or carry out a designated test unless—

(a) he is satisfied that any of the following conditions exist, namely:—

(i) Age of the pregnant woman is more than 35 years,

(ii) Occurrence of two or more abortions or foetal loss,

(iii) Occurrence of exposure to potentially teratogenic drugs, radiation, infection or hazardous chemicals

(iv) Family history of mental retardation or physical deformities such as spastic or deaf-mute child, haemoglobinopathy or any other genetic disease,

(v) Any other condition which the State Government may, by notification in the *Official Gazette*, specify; and

(b) he has obtained a written consent of the female in relation to whom the designated test is to be used or carried out, in such form as may be prescribed, after explaining to her the likely side-effects or after-effects of the designated test.

Explanation I.—For the purposes of this section and sections 13, 14 and 20, the expression “specified Gynaecologist” means a Gynaecologist employed as the Head of the Department of Obstetrics and Gynaecology in a Government Hospital to which a medical college is attached.

Explanation II.—For the purposes of this section and sections 13 and 14, the expression “authorised Head of Unit” means such Head of Unit of Department of Obstetrics and Gynaecology in a Government Hospital to which a medical college is attached as may be authorised in writing by the specified Gynaecologist in such Government Hospital in this behalf.

Inspectors.

6. (1) The State Government may, by notification in the *Official Gazette*, appoint such officers of the Government as possess the prescribed qualifications to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The State Government may, by notification in the *Official Gazette*, appoint any officer of the Government to be a Chief Inspector who shall exercise the powers of an Inspector throughout the State.

Powers of Inspectors.

7. Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed, enter, with such assistants being persons in the service of the State Government or any local or other public authority, as he thinks fit, any dispensary, clinic, laboratory or any other premises, where he has reason to believe that contravention of the provisions of this Act has been, is being or is about to be committed and search the same, and seize—

(a) any apparatus, equipments and instruments which were used or are being used or about to be used in contravention of the provisions of this Act if he has reason to believe that such apparatus, equipments and instruments are liable to confiscation under the provisions of this Act;

(b) any books of accounts and documents which in his opinion may be useful for, or relevant to, any proceeding under this Act and the person from whose custody such books of accounts and documents are seized shall be entitled to make copies thereof or to take extracts therefrom in the presence of the Inspector having the custody of such books of account or documents.

34 of 1971.

8. Whoever in contravention of the provisions of section 3 uses or carries out any specified test for the purpose of determination of sex of a foetus irrespective of whether it is intended to terminate pregnancy under the Medical Termination of Pregnancy Act, 1971 or not shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees :

Penalty for use of specified test in contravention of provisions of section 3.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in writing in the judgement of the court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

34 of 1971.

9. Whoever in contravention of section 3 aids or abets the use or carrying out of any specified test for the purpose of determination of sex of a foetus irrespective of whether it is intended to terminate pregnancy under the Medical Termination of Pregnancy Act, 1971, or not shall, on conviction be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees :

Penalty for aiding or abetting use of specified test in contravention of provisions of section 3.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in writing in the judgement of the court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

10. Whoever in contravention of section 3 submits to a specified test shall, on conviction, be punished with fine which may extend to five thousand rupees.

Penalty for submission to specified test in contravention of section 3.

11. Whoever in contravention of section 3 aids or abets submission of a female to a specified test shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to five thousand rupees :

Penalty for aiding or abetting submission of a female to specified test.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in writing in the judgement of the court, such imprisonment shall not be less than three months and fine shall not be less than one thousand rupees.

12. Whoever in contravention of section 4 takes part in any advertisement offering to determine the sex of a foetus shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both.

Penalty for taking part in any advertisement in contravention of provisions of section 4.

13. Whoever not being a specified Gynaecologist or an authorised Head of Unit in contravention of the provisions of section 5 uses or carries out any designated test for any purpose whatsoever, shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees :

Penalty for use of designated test in contravention of provisions of section 5.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in writing in the judgement of the court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

Penalty for use of designated test by specified Gynaecologist for any purpose other than mentioned in section 5 in contravention of provisions of section 5.

14. Where a specified Gynaecologist or an authorised Head of Unit uses or carries out a designated test for any purpose other than the purpose of detection of any of the abnormalities mentioned in section 5, he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both.

Apparatus, equipments and instruments liable to confiscation.

15. Whenever any offence punishable under section 8 or 13 has been committed, any apparatus, equipments and instruments used in commission of such offence shall be confiscated by the order of the Court.

Offences under sections 8, 9, 11, 12 and 13 to be cognisable and non bailable.

16. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police-officer not below the rank of Sub-Inspector may arrest without warrant any person who is reasonably suspected of having committed an offence under section 8, 9, 11, 12, or 13 and offences under sections 8, 9, 11, 12, and 13 shall be non-bailable.

2 of 1974.

Names of offenders to be reported to Medical Council.

17. (1) Where any registered medical practitioner is convicted of an offence under section 8, 12 or 13, the court convicting such practitioner shall report the name of such practitioner to the Gujarat Medical Council.

(2) The Gujarat Medical Council shall take such disciplinary action against the registered medical practitioner as deemed fit.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government for anything which is in good faith done or intended to be done in pursuance of this Act.

Power to make rules.

19. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely:--

(a) the form in which written consent of a female is to be obtained under clause (b) of sub-section (4) of section 5;

(b) the qualifications to be possessed by persons for being appointed as Inspectors under sub-section (1) of section 6;

(c) rules subject to which Inspectors may exercise the power of entry, search and seizure under section 7;

(d) any other matter which is to be or may be prescribed under this Act.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

20. Nothing in this Act shall apply to the use or carrying out of any specified test or designated test solely for the purpose of medical education or research, other than such education or research related to sex determination, by--

Savings.

(a) a specified Gynaecologist, or

(b) such professor or such associate professor of Obstetrics and Gynaecology in any Government Medical College authorised in writing by a specified Gynaecologist of the Government Hospital to which such Government Medical Collage is attached,

(c) such professor or such associate professor of Obstetrics and Gynaecology in any other medical college, recognised by the Medical Council of India or, as the case may be, approved by the State Government, as may be authorised in this behalf by the State Government by notification in the *Official Gazette*.

STATEMENT OF OBJECTS AND REASONS

It has been brought to the notice of the State Government that pre-natal diagnostic tests intended to find out probable genetic disorders in unborn child are freely being carried out to determine the sex of the unborn child with a view to terminating the pregnancy, with or without the consent of mother, if the unborn child is determined to be a female. Such diagnostic tests often deteriorate the health of the woman and sometimes result in her death. The tendency of terminating the pregnancy if the unborn child is determined to be a female stems from the belief that a girl child is burdensome and therefore unwanted.

In order to prevent deterioration of the health of pregnant woman on account of pre-natal diagnostic tests and protect the unborn girl child so as to prevent imbalance in the male and female population in future, it is considered necessary to enact the proposed legislation to prohibit the use of pre-natal diagnostic tests, for determination of sex of unborn child and to regulate the use of diagnostic tests for determination of genetic or congenital disorders.

The following notes on clauses explain in brief the important provisions of the Bill.

Clause 2.—This clause seeks to define certain words. Sub-clause (b) seeks to define "designated test" to mean any of the diagnostic tests mentioned therein and power is taken to the State Government, to specify any other test which on such specification would be the designated test. Sub-clause (f) seeks to define "specified test" to mean any of the diagnostic tests mentioned therein as well as any of the designated test. Power is also taken to the State Government to specify any other test which on such specification would be the specified test.

Clause 3.—This clause seeks to prohibit—

- (a) the use or the carrying out of a specified test,
- (b) aiding or abetting the use or the carrying out of a specified test,
- (c) submission of a woman to a specified test,
- (d) aiding or abetting submission of a woman to a specified test,

for the determination of sex of a fetus.

Clause 4.—This clause seeks to prohibit advertisement offering to determine sex of fetus.

Clause 5.—This clause seeks to prohibit—

- (a) the use or the carrying out of any designated test by any person other than the Gynaecologist mentioned therein;

(b) the use or carrying out of the designated test by the Gynaecologist at any place other than the Government Hospital attached to a Medical College in which the Gynaecologist is employed,

(c) the use or carrying out of the designated test by the Gynaecologists for any purpose other than the detection of the abnormalities mentioned in sub-clause (3) of the said clause 5,

(d) the use or carrying out of the designated test by the Gynaecologist unless the conditions mentioned in paragraph (a) of sub-clause (4) of clause 5 exist and written consent of the female in relation to whom the designated test is to be used is obtained.

Clause 6.—This clause empowers the State Government to appoint Inspectors.

Clause 7.—This clause provides for powers of the Inspectors to enter, search and seize.

Clauses 8, 9, 10, 11, 12, 13 and 14.—These clauses provide for penalty for contraventions of clauses 3, 4 and 5.

Clause 15.—This clause provides for confiscation of apparatus, equipments and instruments used in commission of an offence under clause 8 or 13.

Clause 17.—This clause empowers the Court to report the name of a registered medical practitioner convicted of an offence under clause 8, 12, or 13, to the Gujarat Medical Council for disciplinary action by the Council against the practitioner.

Clause 19.—This clause provides for power of the State Government to make rules.

Clause 20.—This clause saves the use or carrying out of specified test or designated test, solely for the purpose of medical education and research other than that related to sex determination by persons mentioned therein.

BABUBHAI VASANWALA.

FINANCIAL MEMORANDUM

Clause 6 of the Bill empowers the State Government to appoint Government officers possessing prescribed qualifications to be Chief Inspector and Inspectors to exercise the powers of Inspectors for the purposes of the Act. Since only existing Government officers are to be appointed, such appointment will not involve any additional expenditure from the Consolidated Fund of the State.

BABUBHAI VASANWALA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following reports:—

Clause 1.—Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette* the date on which the remaining provisions of the Act shall come into force.

Clause 2.—(i) Paragraph (v) of sub-clause (b) of this clause empowers the State Government to specify by notification in the *Official Gazette* any other test to be a designated test.

(ii) Paragraph (iv) of sub-clause (f) of this clause empowers the State Government to specify by notification in the *Official Gazette* any other test to be a specified test.

Clause 5.—(i) Item (vii) in sub-clause (3) of this clause empowers the State Government to specify by notification in the *Official Gazette* any other abnormality or disease for the purposes of the said sub-clause (3).

(ii) Item (v) in paragraph (a) of sub-clause (4) of this clause empowers the State Government to specify by notification in the *Official Gazette* any other condition for the purposes of the said paragraph (a).

(iii) Paragraph (b) of the said sub-clause (4) empowers the State Government to prescribe by rules, the form in which a written consent of a female shall be obtained.

Clause 6.—Sub-clauses (1) and (2) of this clause empowers the State Government to appoint respectively the Inspectors and the Chief Inspector for the purposes of the Act.

Clause 7.—This clause empowers the State Government to make rules subject to which an Inspector may exercise the powers of entry, search and seizure within the local limits for which he is appointed.

Clause 19.—This clause empowers the State Government to make by notification in the *Official Gazette* rules generally for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2).

Clause 20.—Sub-clause (c) of this clause empowers the State Government to authorise by notification in the *Official Gazette* certain professors and associate professors to use or carry out any designated test or specified test for the purpose of medical education and research.

2. The delegation of powers as proposed is necessary and is of a normal character.

Dated the 21st February, 1991.

BABUBHAI VASANWALA."

Gandhinagar.

Dated the 5th March, 1991.

P. N. THAKKER,

Secretary,

Gujarat Legislative Assembly



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, MARCH 14, 1991/PHALGUNA 23, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE BOMBAY ELECTRICITY DUTY (GUJARAT AMENDMENT)
 BILL, 1991.**

GUJARAT BILL NO. 22 OF 1991.

A BILL

further to amend the Bombay Electricity Duty Act, 1958.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Electricity Duty (Gujarat Amendment) Act, 1991.
- (2) It shall come into force on the 1st April, 1991.

Short
title and
commence-
ment,

Amendment
of section 2
of Bom. XL
of 1958.

2. In the Bombay Electricity Duty Act, 1958 (hereinafter referred to as "the principal Act"), in section 2,—

Bom. XL of
1958.

(1) in clause (bb),—

(a) in sub-clauses (i) and (ii),—

(i) the brackets and words "(other than eatables or drinks)" shall be deleted;

(ii) for the words "but does not include a service undertaking", the following shall be substituted, namely :—

"but does not include—

(A) a service undertaking; and

(B) an undertaking which manufactures or produces any kind of food or drinks or both meant ordinarily for consumption on the premises of the undertaking.";

(b) the existing *Explanation* shall be numbered as *Explanation 2*, and before the *Explanation 2* as so numbered, the following *Explanation* shall be inserted as *Explanation 1*, namely :—

"*Explanation 1*.—For the purpose of item (B) of this clause, "premises of the undertaking" includes all premises which are intended for being used for consumption of food or drinks or both";

(c) in *Explanation 2* as so numbered, in clause (a), in sub-clause (i), the brackets and words "(other than eatables or drinks)" shall be deleted;

(2) in clause (ee), items (iii) and (iv) shall be deleted.

Amendment
of Schedule
I to Bom.
XL of 1958.

3. In the principal Act, in Schedule I, in Part I, in item (4), sub-item (a) shall be deleted.

Amendment
of Schedule
II to Bom.
XL of 1958.

4. In the principal Act, in Schedule II, in Part I, in item (4), sub-item (a) shall be deleted.

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Bombay Electricity Duty Act, 1958, the undertakings engaged in the manufacture or production of eatables and drinks are excluded from the definition of "industrial undertaking" given in clause (bb) of section 2 of the said Act, with the result that such undertakings are liable to pay, for energy consumed by them, at a higher rate than that payable by industrial undertakings. It is considered necessary to bring such undertakings within the definition of "industrial undertaking" with a view to extending to them the benefit of the rate of electricity duty payable under the said Act by the industrial undertakings.

The activities of undertakings specified in items (iii) and (iv) of clause (ee) of section 2 of the said Act are included in the definition of "service undertaking" and chargeable at a higher rate of electricity duty. In order to give some relief to undertakings engaged in such activities, it is also considered necessary to exclude the said activities from the definition of "service undertaking" given in clause (ee) of the said section 2.

Amendments made in Schedule I and Schedule II to the said Act are of consequential nature.

This Bill seeks to amend the said Act to achieve the aforesaid objects with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Legislative Assembly on 20th February, 1991.

Dated the 13th March, 1991.

CHIMANBHAI PATEL,

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,

Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 14th March, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII]

FRIDAY, MARCH 15, 1991/PHALGUNA 24, 1912

Separate paging is given to this Part in order that it may be filed as a
 separate Compilation.

P A R T V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under
 the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE GUJARAT TAX ON LUXURIES (HOTELS AND LODGING HOUSES)
 (AMENDMENT) BILL, 1991.**

Gujarat Bill No: 23 of 1991.

A BILL

*further to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses)
 Act, 1977.*

It is hereby enacted in the Forty-second Year of the Republic of India
 as follows :—

1. (1) This Act may be called the Gujarat Tax on Luxuries (Hotels
 and Lodging Houses) (Amendment) Act, 1991.

(2) It shall come into force on the 1st April, 1991.

Short
 title and
 commence-
 ment.

23—1

V— Extra—23—1

Amendment
of Section
3 of Guj.
24 of 1977.

2. In the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, in section 3, in sub-section (I), for clauses (a), (b) and (c), the following clauses shall be substituted, namely :—

Guj.
24 of
1977.

“(a) Where the charges for lodging are not more than fifty rupees per day per person.

Nil.

(b) Where the charges for lodging are more than fifty rupees but not more than one hundred rupees per day per person,

10 per cent. of such charges in excess of Rs. 50 per person per day.

(c) Where the charges for lodging are more than one hundred rupees but not more than three hundred rupees per day per person.

Rs. 5 plus 15 per cent. of such charges in excess of Rs. 100 per person per day.

(d) Where the charges for lodging are more than three hundred rupees per day per person.

Rs. 35 plus 20 per cent. of such charges in excess of Rs. 300 per person per day.”

STATEMENT OF OBJECTS AND REASONS

The Gujarat State has the longest coast line in the country and places of religious and historical interest. The varied fauna and flora of the State has also an immense tourist potential. The Government had, therefore, decided to give a new thrust to the development of tourism and had announced a policy of giving incentives to hotels, motels, restaurants and amusement parks at various specific places of tourist interest for promoting tourism in the State.

In order to make investment in tourism infrastructure attractive and to provide reasonably priced hotel rooms to both domestic and foreign tourists, it was felt that some concessions in the luxury tax are necessary. The Finance Minister has, therefore, announced specific concessions in the existing rate of luxury tax in his Budget Speech in the Legislative Assembly on the 20th February, 1991. This Bill accordingly seeks to amend section 3 of the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, with a view to giving effect to the proposals contained in the said Budget Speech of the Finance Minister.

Dated the 12th March, 1991.

CHIMANBHAI PATEL.

By order and in the name of the Governor of Gujarat.

R. M. MEHTA,

Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 15th March, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] MONDAY, MARCH 18, 1991/PHALGUNA 27, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

P A R T V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 18th March, 1991 by Shri Babubhai Vasanwala, Minister for Health, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general Information:—

“THE GUJARAT AYURVED UNIVERSITY (AMENDMENT) BILL, 1991.

Gujarat Bill No. 24 of 1991.

A BILL

further to amend the Gujarat Ayurved University Act, 1965.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Ayurved University (Amendment) Act, 1991.

[Short title.]

2. In the Gujarat Ayurved University Act, 1965, in section 11, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment of section 11 of Guj. 40 of 1965.

24-1

V-Ex.-24-1

Guj. 40 of 1965.

"(5A) (a) Subject to the provisions contained in sub-section (4) and notwithstanding anything contained in sub-section (5) where the Vice-Chancellor after making such inquiry as he deems fit is of opinion that the execution of any order or resolution of an authority specified in or declared under section 14 or the doing of anything which is about to be done or is being done by or on behalf of the University--

(i) is inconsistent with the provisions of this Act or of any Statute, Ordinance, rule or regulation, or

(ii) is not in the interest of the University, or

(iii) is likely to lead to breach of peace.

he may forward a copy of the order or resolution or, as the case may be, refer the doing of the thing, with a statement of reasons, to the authority which made the order or passed the resolution or proposes to do the thing for reconsideration by that authority as to whether the said order or resolution may not be rescinded, or revised or modified in the manner stated by him, or the doing of the thing be refrained from.

(b) Where the authority after reconsideration revises or modifies the order or the resolution in the manner stated by the Vice-Chancellor, then notwithstanding anything contained in clause (e) such revised or modified order or resolution shall revive from the date of such revision or modification.

(c) Where the authority revises or modifies the order or resolution in such manner as is inconsistent with the manner stated by the vice-Chancellor, the Vice-Chancellor shall refer the matter to the State Government for its decision.

(d) The State Government may, on such reference being made, revise or modify the order or resolution or direct that the order or resolution shall continue to be in force with or without modification permanently or for such period as it may specify :

Provided that the order or resolution shall not be revised or modified or continued by the State Government without giving the concerned authority a reasonable opportunity of showing the cause against the order.

(e) The order, resolution or, as the case may be, the doing of thing, shall remain in abeyance from the date of the action of the Vice-Chancellor of forwarding the copy of order or resolution or of making reference under clause (a) till the date of the order of the State Government under clause (d)."

STATEMENT OF OBJECTS AND REASONS

The Gujarat Ayurved University Act, 1965 does not contain any provision empowering the Vice-Chancellor or the State Government to revise or modify any order or resolution made by any University authority where such order or resolution is inconsistent with the provisions of the Act or of any Statute, Ordinance, rule or regulation, or is not in the interest of the University, or is likely to lead to breach of peace. It is, therefore, considered necessary to make a provision in the Act, on the lines of the provision contained in other University laws of the State, to empower the Vice-Chancellor to refer back such order or resolution to the concerned University authority for its reconsideration and in the event of the failure of that authority to revise or modify such order or resolution in a manner stated by the Vice-Chancellor also to empower the State Government, when a reference is made by the Vice-Chancellor for its decision, to revise or modify such order or resolution or to direct the continuance in force of such order or resolution either permanently or for a specified period. This Bill seeks to insert a new sub-section (5A) in section 11 of the Act to achieve the aforesaid object.

Dated the 11th March, 1991.

BABUBHAI VASANVALA,

Gandhinagar,

Dated the 18th March, 1991.

P. N. THAKKER,

Secretary,

Gujarat Legislative Assembly.



Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, MARCH 21, 1991/PHALGUNA 30, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

P A R T V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 21st March, 1991 by Shri Udeysinh Baria M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"THE GUJARAT STATE SPORTSMEN ENCOURAGEMENT BILL, 1991.

Gujarat Bill No. 25 of 1991.

A BILL

to provide assistance and encouragement to the leading Sportsmen of the State and matters connected therewith.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat State Sportsmen Encouragement Act, 1991.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

Short title,
extent and
Commence-
ment.

25-1

V-Extra-25-1

Definitions. 2. In this Act, unless the context otherwise requires :—

(a) "Government Servant" means any person appointed to any civil service or post in connection with the affairs of the State of Gujarat and includes also the following—

(i) a Government servant on deputation to other Governments in India.

(ii) Government servant on foreign Service.

(b) "Prominent Sportman" means the sportsman who has secured first, second and third place in any National or International level event of the Sports or Games.

(c) "Promising Sportman" means a Sportsman who has secured first, second or third place in State level competition of the Sport or games.

(d) "Sportsman" includes Sportswoman.

Free hostel facility.

3. Prominent Sportsman or Promising Sportsman may be provided free Lodging, Boarding and practice facility in the Sports Hostels established by the State Government.

Scholarship.

4. Prominent Sportsman shall be given Scholarship of Rupees five thousand for the years in which he has secured first, second or third place.

Loan facility.

5. Prominent Sportsman and Promising Sportsman on application made on this behalf may be granted a loan without interest upto rupees ten thousand repayable in maximum fifty monthly instalments.

Encouragement amount.

6. Prominent Sportsman or Promising Sportsman who is called for selection trial for any international sportsmeet may be granted a sum of rupees ten thousand as an encouragement amount.

Special assistance award.

7. A Sportsman who has represented or selected for representing India in any international Sportsmeet may be granted a sum of Rupees 25,000/- as a Special assistance award.

Free residential plot.

8. A Prominent Sportsman or Promising sportsman shall be allotted free residential plot measuring 200 sq.m. at the place where he ordinarily resides.

Encouragement to Government Servant.

9. A Government Servant who is participating in the district level, State level or National level sports competition shall be given—

(a) Kit allowance upto Rs. 1000/-, and

(b) one month special leave for preparation for competition; and

(c) travelling allowance and daily allowance for the days of actual participation in the competition.

10. A Government Servant who is a Prominent Sportsman or Promising Sportsman may be allowed upto six month special leave in service for preparation for National Level or International level Sports Competition. Leave Facility

11. A Prominent Sportsman or Promising Sportsman who is in Government Service may be assigned light duty and he may be transferred at suitable place where he can promote his sport. Light Duty.

12. (1) A Government servant who is a Prominent Sportsman may be granted out of turn promotion to next higher rank once in his service period. Out of turn promotion and seniority in promotion.

(2) A Government servant who is a promising Sportsman may be given six months seniority in his promotion to next higher rank.

13. (1) The State Government may make rules for the purpose of carrying out the purposes of this Act. Power to make rules.

(2) The particular and without prejudice to the generality of the foregoing powers, such rules may be made to provide for all or may of the following matters, namely :—

(a) the authority by which and the manner in which the free Lodging, Boarding and practice facility is to be provided.

(b) rules regulating the award to be given to prominent Sportsman and promising sportsman.

(c) rules regulating grant of loans, encouragement award and special assistance award.

(d) rules regulating assignment of suitable transfer, light duty and special leave.

(e) rules regulating for kit allowance, on duty leave, travelling and daily allowance under section 9.

(f) rules regulating promotion to next higher rank, and seniority in promotion.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

STATEMENT OF OBJECTS AND REASONS

Many promising and prominent sportsmen of the State of Gujarat are facing difficulties of finance. Such sportsmen who are representing Gujarat State or India and earning glory for the State and Nation deserve encouragement as well as assistance from the State. The present facility like nominal scholarship is highly inadequate. No loan or scholarship is available to them. Adequate facility for practice, free lodging and boarding facility etc. should be provided to the leading sportsmen. Government should help such sportsmen who earn glory for State and Nation and thereby put name of the State of Gujarat on the top of the medal tally of the National and International level sports meet.

Gandhinagar, Dated the 5th March, 1991.

Signed/-
UDEYSINH BARIA,
M.L.A.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, MARCH 21, 1991/PHALGUNA 30, 1912

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 21st March, 1991 by Shri K. B. Solanki, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"THE GUJARAT SECONDARY EDUCATION (AMENDMENT) BILL, 1991.

Gujarat Bill No. 26 of 1991.

A BILL

Further to amend the Gujarat Secondary Education Act, 1972.

It is hereby enacted in the Forty Second Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Secondary Education (Amendment) Act 1991. Short title and comment.
- (2) It shall come into force atonce.

Amendment
of section 2
of Guj. 18
of 1973.

2. In the Gujarat Secondary Education Act, 1972 (hereinafter referred to as "the principal Act"), in section 2, after clause (w) the following clause shall be inserted, namely:—

Guj. 16 of
1972.

"(w-a) "Selection Board" means the Gujarat Secondary Education Service Section Board established under section 35."

Amendment
of section 17
of Guj. 18
of 1973.

3. In the principal Act, in section 17, in clause (26), the words "method of selection" shall be deleted.

Amendment
of section
34 of Guj.
18 of 1973.

4. In the principal Act, in section 34,—

(a) in sub-section (2), the words "recruitment and" shall be deleted;

(b) in the marginal note, for the words "Recruitment and conditions of Service", the words "Reservation of vacancies and conditions of service" shall be substituted.

Substitution
of section
35 of Guj.
of 1973

5. In the principal Act, for section 35, the following section shall be substituted, namely:—

Constitu-
tion of
selection
Board for
selection of
staff of
registered
private
secondary
schools, etc.

"35. (1) With effect on and from such date as the State Government may, by notification in the *Official Gazette*, notify in this behalf, there shall be established, for the purpose of selection of candidates for appointment as teaching and non-teaching staff of registered private secondary school excluding class IV employees of such schools, a Board to be called the Gujarat Secondary Education Service Selection Board.

(2) The Selection Board shall consist of not less than three and not more than five members including the Chairman, as the state Government may think fit to appoint.

(3) Members of the Selection Board shall be persons who, in the opinion of the State Government have sufficient experience in the field of personnel management and education.

(4) The qualifications and experience of the members of the Selection Board shall be such as may be determined by the State Government.

(5) Subject to the provisions of sub-section (2), (3) and (4), the State Government shall appoint as members of the Selection Board such persons as it may think fit and out of the persons so appointed nominate one person as the Chairman of the Selection Board.

(6) The members of the Selection Board shall hold office for a term of five years from the date of their appointment and, on ceasing to hold office after the expiration of their term, they shall be ineligible for re-appointment as such members.

(7) The Selection Board shall have a Secretary, and such other officers and servants as may be required to enable the Selection Board to discharge its functions, under this Act, who may be appointed by the State Government:

Provided that the State Government may by order delegate to the Chairman of the Selection Board or to its Secretary, the powers of appointing such class of servants as may be specified in the order.

(8) The salary and allowances and other conditions of service of the Chairman and other members of the Selection Board and of the Secretary and other officers and servants of the Selection Board shall be such as the State Government may by order determine.

(9) (a) Subject to the provisions of sub-section (1) of section 34, it shall be the duty of the Selection Board to select candidates for appointment as teaching staff of the registered private secondary schools including the head masters and non-teaching staff thereof excluding class IV employees from amongst the persons who are qualified to be appointed as such in accordance with the regulations made in that behalf with the previous sanction of the State Government:

Provided that for the purpose of such selection, preference shall be given to a protected teacher, if he is otherwise eligible:

Provided further that a surplus teacher shall also be given preference if he is otherwise eligible.

Explanation.—For the purpose of this clause, “a surplus teacher” means a teacher rendered surplus on account of the closing down of a class of a registered private secondary school or of the whole such school.

(b) It shall be the duty of the Selection Board to make selections for appointment of such staff of other schools, if any, as may be entrusted to it by the State Government from time to time.

(10) Any appointment of a headmaster, a teacher or a member of a non-teaching staff excluding Class IV employees of any registered private secondary school made in contravention of the provisions of this section shall be ineffective.

(11) If a member of the Selection Board has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his position or makes persistent default in the performance of his duties and functions under this section, or has become incapable of performing his duties under this section, the State Government may remove him from office after giving him a reasonable opportunity of being heard.

(12) The procedure to be followed in respect of the selection of candidates and the internal working of the Selection Board shall be such as may be determined by the State Government.

Transitory
Provision.

5. The Selection Board shall, as soon as may be, after the commencement of this Act, be established in accordance with the provisions of section 35 of the principal Act as amended by this Act, and until the Selection Board is so established, every school staff selection committee and special school committee functioning immediately before such commencement shall continue to exercise all the powers and perform all the duties under section 35 of the principal Act as if that section had not been amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Section 35 of the Gujarat Secondary Education Act, 1972 provides for constitution of school staff selection committees and special school committees for the purpose of recruiting teaching staff and headmasters respectively in the registered private secondary schools. In order to improve the standard of secondary education in the State and with a view to avoiding the complaints regarding irregularities and malpractices in the selection of teaching staff including headmasters and Non-teaching staff excluding Class IV employees of the registered private secondary schools, it was considered necessary to establish the Gujarat Secondary Education Service Selection Board.

2. To achieve the aforesaid objects it is necessary to amend the said Act.

Dated the 13th February, 1991.

Signed/—
K. B. SOLANKI,
M.L.A.

FINANCIAL MEMORANDUM

Sub-section (8) of the new section 35 proposed to be substituted by clause 5 of this Bill provides for the salary and allowances and other conditions of service of the Chairman, members, officers and servants of the Gujarat Secondary Education Service Selection Board. This provisions if enacted and brought into operation would involve an estimated annual expenditure of about rupees fifteen lakhs from the Consolidated Fund of the State, out of which about rupees ten lakhs would be of a recurring nature and about rupees five lakhs would be of a non-recurring nature.

Dated the 13th February, 1991.

Signed/—
K. B. SOLANKI,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects:—

Clause 5-(a) Sub-section (1) of new section 35 proposed to be substituted by this clause empowers the State Government to notify, by notification in the *Official Gazette*, the date on and from which a Board to be called the Gujarat Secondary Education Service Selection Board shall be established for the purpose of selection of candidates for appointment as teaching and non teaching staff excluding class IV employees, of registered private secondary schools.

(b) Sub-section (4) of the said new section 35 empower the State Government to determine the qualifications and experience of the members of the Selection Board.

(c) The proviso to sub-section (7) of the said new section 35 empowers the State Government, to delegate by order, its powers of appointing such class of servants as may be specified in the order to the Chairman or to the Secretary of the Selection Board.

(d) Sub-section (8) of the said new section 35 empowers the State Government to determine by order the salary and allowances payable, to, and other conditions of service of the Chairman, Secretary, other officers and servants of the Selection Board.

(e) Clause (b) of sub-section (9) of the said new section 35 empowers the State Government to entrust to the Board the work of selection of staff of other schools, if any.

(f) Sub-section (12) of the said new section 35 empowers the State Government to determine the procedure to be followed by the Selection Board in respect of the selection of candidates and the internal working of the Board.

2. The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 13th February, 1991.

Signed/—
K. B. SOLANKI,
M.L.A.

Gandhinagar,
Dated the 21st March 1991.

P. N. THAKKER,
Secretary
Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, MARCH 21, 1991/PHALGUNA 30, 1912

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 21st March, 1991 by Shri Laxmansinh Parmar, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"THE BOMBAY PROHIBITION (GUJARAT AMENDMENT) BILL, 1991.

Gujarat Bill No. 27 of 1991.

A BILL

Further to amend the Bombay Prohibition Act, 1949.

It is hereby enacted in Forty-second year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Prohibition (Gujarat Amendment) Act, 1991. Short title and Commencement.
- (2) It shall come into force at once.

27-1

V-Extra-27-1

Amendment
of Section
60 of
Bom. XXV
of 1949.

2. In the Bombay Prohibition Act, 1949 (hereinafter referred to as "the principal Act"), in section 60,—

(a) after sub-section (2), the following proviso shall be inserted, namely:—

"Provided that no licence, permit or pass shall be necessary for the collection, transport purchase or possession of any quantity of mhowra flowers by any household or head of household on his behalf or on behalf of the members of his household if the mhowra flowers are to be used for household purposes".

(b) in the first proviso, for the words "Provided that", the words "Provided further that" shall be substituted;

(c) in the second proviso, for the words "provided further that", the words "provided also that" shall be substituted.

Amendment
of Section
109 of Bom.
XXV of 1949.

3. In the principal Act, in section 109, after sub-section (2), the following proviso shall be inserted, namely:—

"Provided that nothing in this section shall apply to any household or head of household on his behalf or on behalf of the members of his household, if toddy producing trees are tapped for household purposes.

STATEMENT OF OBJECTS AND REASONS

Section 60 of the Bombay Prohibition Act, 1949 provides for prohibition of export or import of mhowra flowers. Sub-section (2) provides for control and regulation of transport, sale, etc. of mhowra flowers.

Restrictions imposed by the said section creates hardships for the household living in rural areas and particularly in Tribal areas. As most of the illiterate people of the rural areas and particularly in tribal areas become victim of section 60 by the authorities. They do not know the detailed provisions of the Act. Mhowra Flowers is a medicinal plant and it is used for the medical purposes traditionally, since long. In rural areas and tribal areas people use mhowra flowers for edible purpose as the same provides nutrition of high qualities and is a substitute for costly tonics.

In view of that, it is necessary to liberalise the provisions of the Act so as to exempt the household or head of household on his behalf or on behalf of the members of his household from the restrictions imposed by section 60.

Section 109 of the Act provides for duty on tapping of toddy trees. In rural areas and particularly in tribal areas people drink NIRA made from toddy trees. Restrictions imposed by the said section has created the hardships for the people living in rural and tribal areas. They do not know the law of prohibition in detail and become victim many times.

Also the NIRA (as traditionally known morning juice of the toddy tree) is consumed as a tonic for the poor rural people and children, many people grow toddy for this said purpose.

Also the toddy tree is a beautiful long tree, tapping of toddy trees will boost the tree plantation and will help the rural areas developed. This Bill seeks to achieve the aforesaid objects.

Gandhinagar, Dated the 15th February, 1991.

Signed/—
LAXMANSHINH PARMAR,
M.L.A."

Gandhinagar,
Dated the 21st March, 1991.

P. N. THAKKER,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII]

FRIDAY, MARCH 22, 1991/CAITRA 1, 1913

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT SALES TAX (AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 28 OF 1991.

A BILL

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1991.

(2) It shall come into force on the 1st April, 1991.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal Act"), in section 10A, in sub-section (1), for the words "any year", the words, figures and letters "in the year commencing on the 1st April, 1990 and every year thereafter" shall be substituted.

Guj. 1. of
1970.

Short title
and
commen-
cement.

Amend-
ment of
section 10A
of Guj. 1
of 1970

Amend-
ment of
Schedule
II Part-A
to Guj. 1
of 1970.

3. In the principal Act, in Schedule II, in Part A,—

(1) in entry 10, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Ten paise in the rupee" shall be substituted;

(2) in entry 102, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

In his Budget Speech in the Gujarat Legislative Assembly on the 20th February, 1991, the Finance Minister has proposed to increase the rate of sales tax on furnace oil from 7 per cent. to 10 per cent. and on lignite from 10 per cent. to 15 per cent. This Bill seeks to amend the Gujarat Sales Tax Act, 1969, with a view to giving effect to the said proposal.

As a doubt may be raised as to from what date the year is to be reckoned for the purpose of section 10A, which provides for the levy of turnover tax, clause 2 of the Bill seeks to amend sub-section (1) of the said section 10A to clarify that the year shall be reckoned from the 1st April, 1990.

Dated 21st March, 1991.

CHHABILDAS MEHTA.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 22nd March, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] FRIDAY, MARCH 22, 1991/CAITRA 1, 1913

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

To be translated in to Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT)
 BILL, 1991.**

GUJARAT BILL NO. 29 OF 1991.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1991.

Short title
and commen-
cement.

(2) It shall come into force on the 1st April, 1991.

Amendment
of section 2
of Bom. LXV
of 1958.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as Bom. LXV of 1958. "the principal Act"), in section 2,—

(1) in clause (5), the following shall be added at the end, namely :—

"or, as the case may be, the Motor Vehicles Act, 1988.";

59 of
1988.

(2) in clause (10), for the words and figures "the Motor Vehicles Act, 1939", the words and figures "the Motor Vehicles Act, 1988" shall be substituted.

IV of
1939.
59 of
1988.

Amendment
of section 3
of Bom.
LXV of
1958.

3. In the principal Act, in section 3,—

(1) in sub-section (1), in the first proviso,—

(a) for the words "in the First Schedule", the words, figure and letter "in section 3A or the First Schedule" shall be substituted;

(b) for the words and figures "the Motor Vehicles Act, 1939", the words and figures "the Motor Vehicles Act, 1988" shall be substituted;

IV of
1939.

59 of
1988.

(2) the following sub-section shall be added at the end, namely :—

"(3) No tax shall be leviable under sub-section (1) on motor vehicles on which tax is leviable under sub-section (1) of section 3A."

Substitution
of section 3A
of Bom. LXV
of 1958.

4. In the principal Act, for section 3A, the following section shall be substituted, namely :—

Levy and
payment of
tax on
certain
omnibuses.

"3A. (1) On and from the 1st day of April, 1991, there shall be levied and collected on all omnibuses which are used or kept for use in the State exclusively as contract carriages (hereinafter in this section and sub-section (1A) of section 4 referred to as "the designated omnibuses") a tax at the rates specified in the table below :—

TABLE

Description of designated omnibuses	Rate of tax
1	2
1. Ordinary designated omnibuses	Annual rate of Rs. 1,800 per passenger permitted to be carried.
2. Luxury or tourist designated omnibuses	Annual rate of Rs. 2,700 per passenger permitted to be carried.

Provided that in the case of designated omnibuses used solely for the purpose of transporting students of educational institutions in the State in connection with any of the activities of such educational institutions a tax shall be levied and collected under sub-section (1) of section 3, and not under this sub-section.

(2) (a) The tax leviable under sub-section (1) shall be paid in advance by every registered owner or any person having possession or control of the designated omnibuses either annually at the annual rate specified in the Table appearing in sub-section (1) or in monthly instalments of one-twelfth of the annual rate.

(b) (i) The annual payment of tax shall be made at any time before the beginning of the year to which the tax relates,

(ii) The payment of monthly instalment of tax shall be made before the beginning of each month to which the monthly instalment of the tax relates.

(3) Notwithstanding anything contained in sub-section (1).—

(a) the amount of tax leviable in respect of the designated omnibus brought for use in the State for a temporary period not exceeding seven days shall be Rs. 72 per passenger permitted to be carried if it is an ordinary designated omnibus and Rs. 108 per passenger permitted to be carried if it is a luxury or tourist designated omnibus;

(b) where such designated omnibus is to be used or kept for use in the State for a period exceeding seven days but not exceeding one year, the tax shall be leviable on such vehicle at the rate of one-twelfth of the annual rate of tax for each month or part thereof;

(c) the tax leviable under this sub-section shall be paid within such period and in such manner as may be prescribed.

(4) In calculating the amount of tax due under this section the fraction of a rupee less than fifty paise shall be taken as fifty paise, and the fraction of a rupee exceeding fifty paise shall be taken as a rupee.

(5) Where the registered owner or any person having possession or control of an omnibus who has paid tax under this section proves to the satisfaction of the Taxation Authority that the designated omnibus in respect of which the tax has been paid, has not been used for a continuous period of not less than two months, he shall be entitled to the refund of an amount

equal to one-twelfth of the annual rate of the tax paid in respect of such omnibus for each complete month of the period for which the tax has been paid.

(6) Except as otherwise provided in sub-sections (2), (3), (4) and (5), the provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the tax leviable under sub-section (1) as they apply in relation to the tax leviable under sub-section (1) of section 3."

Amendment
of section 4
of Bom. LXV
of 1958.

5. In the principal Act, in section 4,

(1) in sub-section (1A), in clause (a), for the words "a transport vehicle", the words "a transport vehicle not being a designated omnibus" shall be substituted;

(2) for the marginal note, the following marginal note shall be substituted, namely:—

"Payment of tax levied under section 3".

Amendment
of section 6
of Bom. LXV
of 1958.

6. In the principal Act, in section 6, in sub-section (3), for the words and figures "Chapter VIII of the Motor Vehicles Act, 1939", the words and figures "Chapter XI of the Motor Vehicles Act, 1988" shall be substituted. IV of 1939.
59 of 1988.

Amendment
of section 23
of Bom. LXV
of 1958.

7. In the principal Act, in section 23, in sub-section (2), for clause (b), the following clause shall be substituted, namely:—

"(b) to prescribe the period within which and the manner in which the tax under sub-section (3) of section 3A and under sub-section (1) of section 4 shall be paid;"

Amendment
of First
Schedule
to Bom.
LXV of
1958.

8. In the principal Act, in the First Schedule, in Part I, under the heading "A. Motor Vehicles fitted solely with pneumatic tyres" in Explanation II, for the words, brackets and figures "in the proviso to sub-section (1) of section 24 of the Motor Vehicles Act, 1939", the words, brackets and figures "in the proviso to sub-section (1) of section 41 of the Motor Vehicles Act, 1988" shall be substituted. IV of 1939.
59 of 1988.

Amendment
of Second
Schedule
to Bom.
LXV of
1958.

9. In the principal Act, in the Second Schedule, in Part I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres." in Explanation II, for the words, brackets and figures "in the proviso to sub-section (1) of section 24 of the Motor Vehicles Act, 1939", the words, brackets and figures "in the proviso to sub-section (1) of section 41 of the Motor Vehicles Act, 1988" shall be substituted. IV of 1939.
59 of 1988.

Amendment
of Third
schedule
to Bom. LXV
of 1958.

10. In the principal Act, in the Third Schedule, in Part I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres." in Explanation II, for the words, brackets and figures "in the proviso to sub-section (1) of section 24 of the Motor Vehicles Act, 1939", the words, brackets and figures "in the proviso to sub-section (1) of section 41 of the Motor Vehicles Act, 1988" shall be substituted. IV of 1939.
59 of 1988.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Motor Vehicles Tax Act, 1958 with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Gujarat Legislative Assembly on the 20th February, 1991.

2. In particular, clause 4 of the Bill seeks to substitute the existing section 3A by a new section 3A. The new section 3A seeks to do away with the levy of additional tax on omnibuses used or kept for use in the State exclusively as contract carriages, and instead, seeks to levy a tax in lieu of tax leviable under the existing section 3A at an annual rate of Rs. 1800/- per passenger permitted to be carried in the case of ordinary omnibuses and at an annual rate of Rs. 2700/- per passenger permitted to be carried in the case of luxury or tourist omnibuses. However, in cases of omnibuses used solely for the purpose of transporting students of educational institutions in the State in connection with any of activities of such institutions, the tax shall be levied and collected under section 3 and not under the substituted section 3A.

3. An opportunity is also taken, to make certain amendments to the said Act as a consequence of replacement of the Motor Vehicles Act, 1939 by the Motor Vehicles Act, 1988.

RAMSINH PARMAR,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respect, namely :—

Clause 7.—Clause (b) of sub-section (2) of section 23 sought to be substituted by this clause empowers the State Government to prescribe by rules the period within which and the manner in which the tax under sub-section (3) of section 3A and sub-section (1) of section 4 shall be paid.

2. The delegation of the legislative power as aforesaid is necessary and is of a normal character.

Dated the 21st March, 1991.

RAMSINH PARMAR.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,

Secretary to the Government of Gujarat,

Gandhinagar, dated the 22nd March, 1991. Legal Department.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXI] FRIDAY, MARCH 22, 1991/CAITRA 1, 1913

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the
 proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT NEW BUILDINGS TAX BILL, 1991.
GUJARAT BILL No. 30 OF 1991.

A BILL

to levy tax on new buildings in the State of Gujarat.

It is hereby enacted in the Forty-second Year of the Republic of India as
 follows:—

1. (1) This Act may be called the Gujarat New Buildings Tax Act, 1991.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on the 1st April, 1991.

Short title,
 extent and
 commence-
 ment.

2. In this Act, unless the context otherwise requires,—

(a) "building" means a house, out house, stable, shed and every other
 structure, involving use of bricks, cement, asbestos cement sheets, iron, steel

Definitions.

or any other material which the State Government may, by notification in the *Official Gazette*, specify, and includes any enlargement of or addition to any building existing immediately before the 1st April, 1991;

(b) "development area" means an area declared to be a development area under section 3 of the Gujarat Town Planning and Urban Development Act, 1976;

President's
Act No.
27 of 1976.

(c) "factory" means a building in which plant or machinery is installed for the purpose of carrying on any manufacturing process;

(d) "local area" means—

(i) a City as constituted for the time being under the Bombay Provincial Municipal Corporations Act, 1949;

Bom. LIX
of 1949.

(ii) a municipal borough or a notified area as constituted or as deemed to have been constituted for the time being under the Gujarat Municipalities Act, 1963;

Guj. 34
of 1964.

(iii) a nagar or specified area as constituted or deemed to have been constituted for the time being under the Gujarat Panchayats Act, 1961;

Guj. VI
of 1962.

(iv) a cantonment as constituted for the time being under the Cantonments Act, 1924;

II of 1924.

(e) "local authority" means a municipal corporation, municipality, notified area committee, nagar panchayat, local development committee, an urban development authority or, as the case may be, a gram panchayat constituted under the relevant local authority law;

(f) "new building" means a building in respect of which a certificate of completion is issued on or after the 1st April, 1991 by the authority competent to issue such certificate;

Explanation.—For the purposes of this clause, where for any reason whatsoever a certificate of completion is not issued in respect of a building by the authority competent to do so and such building is occupied on or after the 1st April, 1991 for any use, such building shall be deemed to be a new building as if a certificate of completion had been issued in respect of such building by the authority competent to do so on the date of the occupation of the building;

(g) "new building tax" means a tax leviable under section 3;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "property tax" means in the City, the general tax levied under section 132 of the Bombay Provincial Municipal Corporations Act, 1949 and in other local areas a tax or rate on buildings or lands or a tax or rate in the form of such tax or rate on buildings or lands levied under the relevant local authority law;

Bom. LIX
of 1949.

(j) "relevant local authority law" means,—

Bom. LIX of
1949.

(i) in relation to a City, the Bombay Provincial Municipal Corporations Act, 1949;

Guj. 24
of 1964.

(ii) in relation to a municipal borough or a notified area, the Gujarat Municipalities Act, 1963;

Guj. VI
of 1962.

(iii) in relation to a gram or nagar or specified area constituted under the Gujarat Panchayats Act, 1961, that Act;

11 of 1924.

(iv) in relation to a cantonment, the Cantonments Act, 1924; and

President's
Act No. 27
of 1976.

(v) in relation to an urban development area, the Gujarat Town Planning and Urban Development Act, 1976.

(k) "specified area" means an area which is for the time being included within the limits of—

(i) a local area, or

(ii) a development area or an urban development area;

(l) "tax" means the new building tax;

President's
Act No. 27
of 1976.

(m) "urban development area" means an area declared to be an urban development area under section 22 of the Gujarat Town Planning and Urban Development Act, 1976;

3. There shall, subject to the provisions of section 4, be levied and paid to the State Government a life-time tax on every new building in the specified area at the rate specified in the Schedule.

Levy of new
buildings
tax.

4. The tax shall not be leviable in respect of—

(a) new buildings exclusively occupied and used for public worship or for charitable purposes;

(b) new buildings vesting in the Central Government;

Exemption
of certain
buildings
from levy
of new
buildings
tax.

President's
Act No. 27
of 1976.

(c) new buildings vesting in the State Government, or belonging to a local authority or a cantonment board or an area development authority constituted under section 5 of the Gujarat Town Planning and Urban Development Act, 1976 or an urban development authority constituted under section 22 of that Act and used solely for public purpose and not used or intended to be used for purposes of profit;

(d) factories.

Explanation.— For the purposes of this section, the following new buildings shall not be deemed to be exclusively occupied and used for public worship or charitable purposes, namely:—

- (a) new buildings in which trade or business is carried on; and
- (b) new buildings in respect of which rent is derived, whether rent is or is not applied exclusively to religious or charitable purposes.

Primary
liability to
pay tax.

5. (1) The tax shall be leviable primarily on the actual occupier of the building upon which the tax is leviable, if he is the owner of such building.

(2) In other cases, the tax shall be primarily leviable,—

- (a) if the building is let, upon the lessor;
- (b) if the building is sub-let, upon the superior lessor;
- (c) if the building is unlet, upon the person in whom the right to let vests.

Authorities
competent to
collect new
building tax
and the
manner of
such collec-
tion.

6. (1) The tax shall be collected—

- (a) in the City, by the Municipal Corporation of the City;
- (b) in the municipal borough, by the municipality;
- (c) in the notified area, by the notified area committee;
- (d) in the nagar, by the nagar panchayat;
- (e) in the specified area constituted under the Gujarat Panchayats Act, 1961, by the local development committee;
- (f) in any area of the development area or, as the case may be, of the urban development area which does not fall within the City, Municipal borough, notified area, nagar or, as the case may be, the specified area constituted under the Gujarat Panchayats Act, 1961, the local authority having jurisdiction over that area; and
- (g) in cantonment, by the Collector of the district in which the cantonment is situate;

Guj.
VI of
1962.

Guj. VI
of 1962.

Provided that where a local authority is not for the time being levying a property tax or where a local authority has made a default in the collection of the tax or payment thereof to the State Government, the State Government may, by order, direct that the tax shall be collected by the Collector.

(2) The tax shall be collected—

- (a) in any area of a City, municipal borough, notified area, nagar, gram or specified area constituted under the Gujarat Panchayats Act, 1961, in the same manner in which the property tax is collected in that area under the relevant local authority law or where a direction under the proviso to sub section (1) has been issued in such manner as may be prescribed,

Guj. VI,
of 1962.

(b) in the area of a cantonment as arrears of land revenue, and

(c) in any urban development area, in the same manner in which the development charge is collected in that area under the relevant local authority law.

(3) The collection of tax and the recovery of penalty under this Act on behalf of any local authority shall be made by the appropriate authority appointed to collect the property tax or, as the case may be, the development charge on behalf of such local authority under the law under which the local authority is constituted.

7. The tax shall be paid by the person who is primarily liable therefor, within three months from the date of the receipt by him of the certificate of completion of the new building or where any new building is occupied before issue of such certificate within three months from the date of occupation, whichever is earlier:

Time of
payment of
tax.

Provided that the collecting authority may extend the time for payment if it is satisfied that it is not possible for the person to make payment within the time for reasons beyond his control.

8. (1) If any person, on being served with a notice of demand for collection of the tax in pursuance of the provisions of sub-section (2) of section 6 fails to pay within the period mentioned in the notice, any amount due from him on account of the tax, the local authority or, as the case may be, the collector on being satisfied that such person has wilfully failed to pay the tax, may, subject to the general or special order of the State Government, recover from him a sum not exceeding one-fourth of the amount of the tax so unpaid, in addition to the amount of the tax payable by him.

Penalty for
default in
payment of
tax.

(2) Sums recoverable under this section shall be recoverable in the manner provided in section 6.

9. Notwithstanding anything contained in any law and notwithstanding any rights arising out of any contract or otherwise howsoever, all sums due on account of the tax levied under section 3 or as a penalty imposed under section 8 for failure to pay tax in respect of a new building, shall, subject to the prior payment of land revenue, if any, thereon due to the State Government be a first charge upon the said building and upon the moveable property, if any, found within or upon such building and belonging to the person liable for such tax or penalty.

Tax to be a
first charge
on premises
of new
building.

10. The local authority required to collect the tax under this Act shall be entitled for its cost of collection to such rebate as may be prescribed and different rates of rebate may be prescribed for different specified areas.

Local autho-
rity entitled
to rebate
or cost of
collection.

11. (1) If any local authority makes default in the collection or payment to the State Government of any sum due in respect of the tax under this Act, the State Government may, after holding such inquiry as it thinks fit, fix a period for the collection or payment of such sum or direct the recovery of the tax in such manner as may be prescribed.

Default of
local autho-
rity in
collecting
tax.

(2) If the collection or payment of the sum is not made within the period so fixed, the State Government may, notwithstanding anything contained in any law relating to the funds vesting in such local authority or any other law for the time being in force, direct any bank in which any moneys of the local authority are deposited or the person in charge of the Government treasury or of any other place of security in which the moneys of such local authority are deposited, to pay such sum from such moneys as may be standing to the credit of the local authority in such bank or as may be, in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank or person; and such bank or person shall be bound to obey such order.

(3) Every payment made pursuant to an order under sub-section (2) shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

Power to
make rules.

12. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:—

(i) the manner in which the tax shall be collected in any local area in which no property tax is levied or a local authority has made a default in collection of the tax under clause (a) of sub-section (2) of section 6;

(ii) the rates of rebate under section 10;

(iii) the manner of recovery of tax under sub-section (1) of section 11;

(iv) the time at which and manner in which the amount of tax collected shall be paid to the State Government;

(v) any other matter which is to be or may be prescribed under this Act.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature, or to such modification as the State Legislature may make during the session in which they are so laid, or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

SCHEDULE

(See section 3)

PART-I

New Buildings for residential or industrial purpose.

Sr. No.	Built up area of a new building.	Rate per square meter of built up area.	
		a. City	b. Any specified area other than City.
1.	Upto 100 square meters	Nil	Nil
2.	Exceeding 100 square meters but not exceeding 200 square meters.	Rs. 50 per each square meter in excess of 100 square meters.	Rs. 25 per each square meter in excess of 100 square meters.
3.	Exceeding 200 square meters.	Rs. 5000 plus Rs. 100 per each square meter in excess of 200 square meters.	Rs. 2500 plus Rs. 50 per each square meter in excess of 200 square meters.

PART-II

New Building for commercial purpose.

Sr. No.	Built up area of a new building.	Rate per square metre of built up area.	
		a. City	b. Any specified area other than City.
1.	Upto 30 square meters	Nil	Nil
2.	Exceeding 30 square meters but not exceeding 75 square meters.	Rs. 50 per each square meter in excess of 30 square meters.	Rs. 25 per each square meter in excess of 30 square meters.

3. Exceeding 75 square meters.

Rs. 2250 *plus*
Rs. 100 per
each square meter
in excess of
75 square meters.

Rs. 1125 *plus*
Rs. 50 per each
square meter in
excess of
75 square meters.

Explanation.—In respect of godowns which are not the part of the premises for commercial purpose, the rate applicable for residential purpose shall be applied. In respect of godowns which are the part of the building for commercial purposes, the relevant rate applicable for building for commercial purpose shall be applicable.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to provide for levy of tax on new buildings in the State of Gujarat with a view to giving effect to the proposals contained in the Budget speech of the Finance Minister in the Legislative Assembly on the 20th February, 1991.

2. The following notes on clauses explain the important provisions of the Bill.

Clause 1.—This clause relates to the short title, extent and commencement.

Clause 2.—This clause provides for the definition of certain words and expressions appearing in the Bill.

Clause 3.—This clause provides for levy of life time tax on premises of every new building constructed in the specified areas at the rates specified in the Schedule.

Clause 4.—This clause provides for exemption of certain buildings from levy of tax.

Clause 5.—This clause provides for primary liability to pay tax.

Clause 6.—This clause provides for authorities competent to collect tax and the manner of such collection.

Clause 8.—This clause provides for penalty for default in payment of tax.

Clause 10.—This clause provides for rebate to local authority for costs of collection.

Clause 12.—This clause empowers the State Government to make rules generally to carry out the purposes of the Act and particularly for all or any of the matters specified therein.

NARHARI AMIN

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects:--

Clause 6.—Paragraph (a) of sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which the tax shall be collected in any local area in the circumstances mentioned in the proviso to sub-clause (1).

Clause 8.—This clause empowers the State Government to issue general or special orders subject to which the local authority or, as the case may be the Collector, may recover from a defaulter a penalty not exceeding one-fourth of the amount of the unpaid tax.

Clause 10.—This clause empowers the State Government to prescribe by rules the rate of rebate to be given to a local authority for its cost of collection and empowers the State Government to prescribe different rates of rebate for different specified areas.

Clause 11.—Sub-clause (1) of this clause empowers the State Government to prescribe by rules the manner of recovery of tax in cases of default by a local authority in the collection of tax or payment of tax to the State Government.

Clause 12.—This clause empowers the State Government to make, by notification in the *Official Gazette*, rules generally for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub clause (2).

2. The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 22nd March, 1991.

NARHARI AMIN.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,

Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 22nd March, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII]

TUESDAY, MARCH 26, 1991/CAITRA 5, 1913

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under
the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT APPROPRIATION BILL, 1991.

GUJARAT BILL NO. 31 OF 1991.

A BILL

*to authorise payment and appropriation of certain sums from and out of the
Consolidated Fund of the State of Gujarat for the services of the financial year
ending on the thirty-first day of March, 1992.*

It is hereby enacted in the Forty-second Year of the Republic of India as
follows:—

*1. This Act may be called the Gujarat Appropriation Act, 1991.

Short title

31-1

V-Extra-31--1

Withdrawal
of Rs. 87,26,
95,30,000
from
and out of
the Consoli-
dated Fund
of the State
of Gujarat
for the
financial year
1991-92.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of six thousand seven hundreded twenty-six crores, ninety-five lakhs, thirty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1991-1992, in respect of the services and purposes specified in column 2 of the Schedule.

Appropri-
ation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appro- priation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
1.	Agriculture, Co-operation and Rural Development Department	Revenue 1,70,69,000	..	1,70,69,000
2.	Agriculture	Revenue 1,98,53,83,000	..	1,98,53,83,000
		Capital 30,05,00,000	..	30,05,00,000
3.	Minor Irrigation, Soil Conser- vation and Area Development	Revenue 31,43,77,000	..	31,43,77,000
		Capital 58,00,000	..	58,00,000
4.	Animal Husbandry and Dairy Development	Revenue 22,69,06,000	..	22,69,06,000
		Capital 2,15,000	..	2,15,000
5.	Fisheries	Revenue 11,72,44,000	..	11,72,44,000
		Capital 2,09,75,000	..	2,09,75,000
6.	Co-operation	Revenue 72,93,21,000	..	72,93,21,000
		Capital 7,08,28,000	..	7,08,28,000
7.	Other Expenditure pertaining to Agriculture, Co-operation and Rural Development Department	Capital 69,15,000	..	69,15,000
8.	Education Department	Revenue 86,15,000	..	86,15,000
9.	Education	Revenue 9,59,16,27,000	23,38,40,000	9,82,54,67,000
		Capital 17,00,000	..	17,00,000
10.	Other Expenditure pertaining to Education Department	Revenue 3,49,90,000	..	3,49,90,000
		Capital 10,23,25,000	..	10,23,25,000

No. of Vote/ Appro- priation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2			
		Rs.	Rs.	Rs.
11.	Energy and Petro-Chemicals Department Revenue	27,58,000	..	27,58,000
12.	Tax collection Charges (Energy and Petro-Chemicals Department) Revenue	1,84,60,000	..	1,84,60,000
13.	Energy Projects Revenue	57,43,00,000	..	57,43,00,000
	Capital	3,68,75,00,000	..	3,68,75,00,000
14.	Other Expenditure pertaining to Energy and Petro-Chemicals Department Capital	14,83,000	..	14,83,000
15.	Finance Department Revenue	2,13,00,000	..	2,13,00,000
	Capital	3,72,000	..	3,72,000
16.	Tax Collection Charges (Finance Department) Revenue	1,08,55,75,000	..	1,08,55,75,000
17.	Treasury and Accounts Administration Revenue	14,39,39,000	..	14,39,39,000
18.	Pensions and other Retirement Benefits Revenue	1,71,67,00,000	10,00,000	1,71,77,00,000
19.	Other Expenditure pertaining to Finance Department Revenue	1,54,18,97,000	..	1,54,18,97,000
	Capital	97,07,000	1,00,000	98,07,000
20.	Repayment of Debt pertaining to Finance Department and its Servicing Revenue	..	6,54,22,79,000	6,54,22,79,000
	Capital	..	4,74,00,44,000	4,74,00,44,000
21.	Food and Civil Supplies Department Revenue	2,41,90,000	..	2,41,90,000
22.	Civil Supplies Revenue	26,78,80,000	..	26,78,80,000
	Capital	2,00,000	..	2,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2	3			
		Rs.	Rs.	Rs.	
23.	Food	Revenue	4,79,56,000	..	4,79,56,000
		Capital	10,00,000	..	10,00,000
24.	Other Expenditure pertaining to Food and Civil Supplies Department	Capital	12,11,000	..	12,11,000
25.	Forest and Environment Department	Revenue	40,09,000	..	40,09,000
26.	Forests	Revenue	29,83,51,000	..	29,83,51,000
		Capital	40,24,49,000	..	40,24,49,000
27.	Environment	Revenue	1,83,00,000	..	1,83,00,000
28.	Other Expenditure pertaining to Forest and Environment Department	Capital	17,82,000	..	17,82,000
29.	Governor	Revenue	..	59,10,000	59,10,000
30.	Council of Ministers	Revenue	1,06,75,000	..	1,06,75,000
31.	Elections	Revenue	64,31,000	..	64,31,000
32.	Public Service Commission	Revenue	21,70,000	90,05,000	1,11,75,000
33.	General Administration Department	Revenue	6,12,52,000	..	6,12,52,000
34.	Economic Advice and Statistics	Revenue	3,48,24,000	..	3,48,24,000
35.	Other Expenditure pertaining to General Administration Department	Revenue	52,85,67,000	..	52,85,67,000
		Capital	76,51,000	..	76,51,000

V-Extra-31-2

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consoli- dated Fund	Total	
1	2	3			
		Rs.	Rs.	Rs.	
36.	State Legislature	Revenue	2,23,70,000	1,70,000	2,25,40,000
37.	Loans and Advances to Govern- ment servants in Gujarat Legis- lature Secretariat	Capital	5,95,000	..	5,95,000
38.	Health and Family Welfare Department	Revenue	1,33,50,000	..	1,33,50,000
39.	Medical and Public Health	Revenue	1,96,88,12,000	..	1,96,88,12,000
40.	Family Welfare	Revenue	43,99,87,000	..	43,99,87,000
41.	Water Supply	Revenue	40,18,00,000	..	40,18,00,000
		Capital	45,77,10,000	..	45,77,10,000
42.	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	27,76,42,000	..	27,76,42,000
		Capital	1,93,66,000	..	1,93,66,000
43.	Home Department	Revenue	1,21,73,000	..	1,21,73,000
44.	Police	Revenue	2,13,62,98,000	3,00,000	2,13,65,98,000
45.	Jails	Revenue	6,89,79,000	..	6,89,79,000
46.	Transport	Revenue	1,24,64,26,000	..	1,24,64,26,000
		Capital	3,96,00,000	..	3,96,00,000
47.	Other Expenditure pertaining to Home Department	Revenue	12,22,17,000	1,00,000	12,23,17,000
		Capital	4,87,57,000	..	4,87,57,000
48.	Industries and Mines Department	Revenue	96,57,000	..	96,57,000
49.	Stationery and Printing	Revenue	21,65,70,000	..	21,65,70,000

No. of Vote/ Appro- pria- tion	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consoli- dated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
50.	Industries	Revenue	75,28,32,000	75,28,32,000
		Capital	32,68,00,000	32,68,00,000
51.	Mines and Minerals	Revenue	6,37,10,000	6,37,10,000
		Capital	1,00,00,000	1,00,00,000
52.	Other Expenditure pertaining to Industries and Mines Department	Revenue	9,45,000	9,45,000
		Capital	32,30,000	32,30,000
53.	Information, Broadcasting and Tourism Department	Revenue	26,00,000	26,00,000
54.	Information and Publicity	Revenue	12,19,41,000	12,19,41,000
		Capital	5,00,000	5,00,000
55.	Tourism	Revenue	1,32,63,000	1,32,63,000
		Capital	76,00,000	76,00,000
56.	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue	1,35,02,000	1,35,02,000
		Capital	8,44,000	8,44,000
57.	Labour and Employment Department	Revenue	52,22,000	52,22,000
58.	Labour and Employment	Revenue	34,45,39,000	34,45,39,000
		Capital	3,00,000	3,00,000
59.	Other Expenditure pertaining to Labour and Employment Department	Capital	36,93,000	36,93,000
60.	Legal Department	Revenue	1,52,10,000	1,52,10,000
61.	Administration of Justice	Revenue	27,00,26,000	3,33,16,000 30,33,42,000
62.	Other Expenditure pertaining to Legal Department	Revenue	1,00,81,000	1,00,81,000
		Capital	31,17,000	31,17,000

No. of Vote/ Appro- pria- tion.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consoli- dated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
63.	Narmada and Water Resources Department	Revenue 1,35,30,000	..	1,35,30,000
64.	Narmada Development Scheme	Revenue 39,00,00,000 Capital 4,84,19,30,000	39,00,00,000 4,84,19,30,000
65.	Irrigation and Soil Conservation	Revenue 3,65,21,34,000 Capital 1,31,70,70,000	3,65,21,34,000 1,31,70,70,000
66.	Other Expenditure pertaining to Narmada and Water Resources Department	Revenue 4,00,000 Capital 88,10,000	4,00,000 88,10,000
67.	Panchayats and Rural Housing Department	Revenue 73,60,000	..	73,60,000
68.	Community Development	Revenue 66,32,40,000 Capital 11,00,000	66,32,40,000 11,00,000
69.	Rural Housing	Revenue 16,80,10,000 Capital 3,93,00,000	30,05,00,000 ..	46,85,10,000 3,93,00,000
70.	Compensations and Assignments	Revenue 13,01,35,000	..	13,01,35,000
71.	Other Expenditure per- taining to Panchayats and Rural Housing Department	Revenue 4,86,05,000 Capital 3,25,09,000	4,86,05,000 3,25,09,000
72.	Revenue Department	Revenue 2,19,41,000	..	2,19,41,000
73.	Tax Collection Charges (Revenue Department)	Revenue 22,59,00,000	1,00,00,000	23,59,00,000
74.	District Administration	Revenue 20,93,17,000	..	20,93,17,000
75.	Relief on account of Natural Calamities	Revenue 84,75,00,000 Capital 25,00,000	84,75,00,000 25,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
76.	Dangs District	Revenue 10,05,15,000 Capital 2,00,000	10,05,15,000 2,00,000
77.	Compensations and Assignments	Revenue 5,36,60,000 Capital 27,00,000	22,70,000 19,50,000	5,59,30,000 46,50,000
78.	Other Expenditure pertaining to Revenue Department	Revenue 40,18,000 Capital 85,11,000	5,000 ..	40,23,000 85,11,000
79.	Roads and Buildings Department	Revenue 2,61,75,000	..	2,61,75,000
80.	Non-Residential Buildings	Revenue 82,02,94,000 Capital 30,37,01,000	3,12,000 ..	82,06,06,000 30,37,01,000
81.	Residential Buildings	Revenue 39,34,84,000 Capital 6,72,06,000	39,34,84,000 6,72,06,000
82.	Roads and Bridges	Revenue 1,67,84,36,000 Capital 37,31,00,000	1,67,84,36,000 37,31,00,000
83.	Ports	Revenue 16,60,000 Capital 9,77,56,000	16,60,000 9,77,56,000
84.	Gujarat Capital Construction Scheme	Revenue 1,58,21,000 Capital 8,00,00,000	1,58,21,000 8,00,00,000
85.	Other Expenditure pertaining to Roads and Buildings Department	Revenue 4,60,25,000 Capital 1,43,11,000	4,60,25,000 1,43,11,000
86.	Social Welfare and Tribal Development Department	Revenue 71,40,000	..	71,40,000
87.	State Excise	Revenue 1,70,70,000	..	1,70,70,000

No. of Vote/ Appro- priation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consoli- dated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
88.	Social Security and Welfare	Revenue 45,42,05,000 Capital 1,45,75,000	45,42,05,000 1,45,75,000
89.	Welfare of Scheduled Tribes	Revenue 19,16,45,000 Capital 22,90,000	19,16,45,000 22,90,000
90.	Other Expenditure pertaining to Social Welfare and Tribal Development Department.	Capital 16,52,000	..	16,52,000
91.	Special Component Plan for Scheduled Castes	Revenue 78,34,50,000 Capital 7,48,11,000	78,34,50,000 7,48,11,000
92.	Tribal Area Sub-Plan	Revenue 1,97,74,55,000 Capital 64,75,77,000	1,97,74,55,000 64,75,77,000
93.	Urban Development and Urban Housing Department	Revenue 46,65,000	..	46,65,000
94.	Urban Housing	Revenue 69,60,000 Capital 6,58,00,000	6,95,47,000 ..	7,65,07,000 6,58,00,000
95.	Urban Development	Revenue 40,15,21,000 Capital 7,50,00,000	40,15,21,000 7,50,00,000
96.	Compensations, Assignments and Tax Collections Charges	Revenue 12,98,00,000	11,51,03,000	24,49,03,000
97.	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue 1,23,85,000 Capital 8,80,000	1,23,85,000 8,80,000
98.	Youth Services and Cultural Activities Department	Revenue 5,00,000	..	5,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consol- dated Fund	Total	
1	2		3		
		Rs.	Rs.	Rs.	
99.	Youth Services and Cultural Activities	Revenue	9,46,99,000	..	9,46,99,000
100.	Other Expenditure pertaining to Youth Services and Cultural Activities Department	Capital	8,92,000	..	8,92,000
		Revenue	41,58,48,73,000	7,32,36,57,000	48,90,85,30,000
		Total			
		Capital	13,61,78,06,000	4,74,31,94,000	18,36,10,00,000
		Grand Total ..	55,20,26,79,000	12,06,68,51,000	67,26,95,30,000

STATEMENT OF OBJECTS AND REASONS

Article 204 (1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

- (a) the grants so made by the Assembly, and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of this State for the financial year ending on the 31st March, 1992.

The amounts are shown below—

	Rs.
(a) Revenue Expenditure	48,90,85,30,000
(b) Capital Expenditure	18,36,10,00,000
Total ..	<u>67,26,95,30,000</u>

Dated the 25th March, 1991.

CHHABILDAS MEHTA.,

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 26th March, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, AUGUST 14 1991/SRAVANA 23, 1913

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

P A R T V

Bill introduced in the Gujarat Legislative Assembly.

To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE BOMBAY LAND REVENUE (GUJARAT AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 32 OF 1991.

A BILL

further to amend the Bombay Land Revenue Code, 1879.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Land Revenue (Gujarat Amendment) Act, 1991.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short
title
and
commen-
cement.

Substitution of section 157 of Bom. V of 1879.

2. In the Bombay Land Revenue Code, 1979, for section 157, the following Bom. V of 1879. section shall be substituted, namely:—

Arrest and detention of defaulter.

"157. (1) At any time after an arrear becomes due, the defaulter (not being an agriculturist from whom such arrear in respect of his occupancy is due) may be arrested and detained in custody for ten days in the office of the Collector or of a Mamlatdar unless the revenue due together with the penalty or interest and the costs of arrest and of notice of demand, if any, and the cost of his subsistence during detention is sooner paid :

Provided that no such arrest shall be made unless the default is wilful and the defaulter is given an opportunity to show cause against his arrest and detention.

(2) If, on the expiry of ten days the amount due by the defaulter is not paid, then, or if the Collector deems fit on any earlier day, he may be sent by the Collector with a warrant, in the form of Schedule C for imprisonment in the civil jail of the district:

Provided that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of a civil court for a debt equal in amount to the arrear of revenue due by such defaulter."

STATEMENT OF OBJECTS AND REASONS

A defaulter of Government dues can be arrested and detained under section 157 of the Bombay Land Revenue Code, 1879, and kept in custody for ten days in the office of the Collector or a Mamlatdar. This being a penal provision, it is necessary to observe the principle of natural justice. Therefore, it is proposed to make provision in the said section 157 for personal hearing before detention.

Where dues to be recovered as arrears of land revenue relate to occupancy of an agriculturist such arrears can be recovered by auction of the land of the occupant or by forfeiting the land in his possession. In such cases, it is not necessary to take action of detention under section 157. It is, therefore, proposed to exclude such cases from the provisions of the said section 157.

This Bill seeks to achieve the aforesaid objects.

DALSUKHBHAI GODHANI

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respects:—

Clause 1 : Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated 7th August, 1991.

DALSUKHBHAI GODHANI.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 14th August, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, AUGUST 14, 1991/SRAVANA 23, 1913

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

"To be translated into Gujarati and the translation to be published in the
Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given
 under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS (REMOVAL OF
 DISQUALIFICATIONS) (SECOND AMENDMENT) BILL, 1991.**

GUJARAT BILL NO. 33 OF 1991.

A BILL

*further to amend the Gujarat Legislative Assembly Members (Removal of
 Disqualifications) Act, 1960.*

It is hereby enacted in the Forty-second Year of the Republic of India
 as follows :—

1. (1) This Act may be called the Gujarat Legislative Assembly
 Members (Removal of Disqualifications) (Second Amendment) Act, 1991.

Short title
 and commence-
 ment.

(2) It shall be deemed to have come into force on the 3rd April, 1991.

Amendment
of Schedule
to Guj. I of
1980.

2. In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960, in the Schedule,—

Guj. I of
1980.

(1) in entry 14, for the word "member", the word "Director" shall be substituted;

(2) after entry 25, the following entries shall be added, namely :—

"26. The office of Chairman of the Gujarat State Road Transport Corporation established under the Road Transport Corporations Act, 1950.

64 of
1950.

27. The office of Chairman or Director of the Gujarat Dairy Development Corporation Limited.

28. The office of Chairman or Director of the Gujarat State Handloom Development Corporation Limited.

29. The office of Chairman or Director of the Gujarat State Export Corporation Limited.

30. The office of Chairman or Director of the Gujarat State Warehousing Corporation established under the Warehousing Corporations Act, 1962."

58 of
1962.

Repeal and
savings.

3. (1) The Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Ordinance, 1991 is hereby repealed.

Guj. Ord.
1 of 1991.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

Some of the Boards and Corporations or Limited Companies formed by the State Government require able heads experienced in the fields of trade, commerce, industry, finance, management or public life to man them efficiently. This is particularly so with regard to those bodies which deal directly with the public and social activities. Sometimes, some Members of the Gujarat Legislative Assembly are found suitable for the purpose but on account of the provision of disqualification in clause (I) of article 191 of the Constitution a doubt arises whether acceptance of the post of a Chairman, member or Director of such a body by a Member of the Gujarat Legislative Assembly would disqualify him on the ground of holding an office of profit under the Government. It was, therefore, considered necessary to remove the disqualification that might be incurred by such Member on being appointed as Chairman or Director of such a body by adding entries 26, 27, 28 and 29 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960. For this purpose, a Bill called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Bill, 1991 (Gujarat Bill No. 9 of 1991) was introduced in the last session of the Gujarat Legislative Assembly on the 14th February, 1991 but could not be taken up for consideration by the House for want of time.

It was also considered necessary to add entry 30 in the said Schedule to remove the disqualification that might be incurred by such Member on being appointed as Chairman or Director of the Gujarat State Warehousing Corporation. Consequential to the amendment of the Gujarat Industrial Development Act, 1962 by the Gujarat Industrial Development (Amendment) Act, 1986, it was also considered necessary to amend entry 14 of the said Schedule. Therefore, as the Gujarat Legislative Assembly was not in session, the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Ordinance, 1991 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 9th August, 1991.

DINSHA PATEL.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 14th August, 1991.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, AUGUST 14, 1991/SRAVANA 23, 1913

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT STATE GUARANTEES (AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 34 OF 1991.

A BILL

further to amend the Gujarat State Guarantees Act, 1963.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. This Act may be called the Gujarat State Guarantees (Amendment) Act, 1991.

Short title.

Guj. XXII
of 1963.

2. In the Gujarat State Guarantees Act, 1963, in section 2, in sub-section (1), for the letters and figures "Rs. 45,00,00,00,000", the letters and figures "Rs. 60,00,00,00,000" shall be substituted.

Amendment
of section 2
of Guj.
XXII of
1963.

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 2 of the Gujarat State Guarantees Act, 1963 fixes Rs. 45,00,00,00,000 to be the limit upto which the State may give guarantees. With a view to meeting increasing demands made in this behalf on the State in the wake of expansion of agricultural and industrial activities in the State, it is considered necessary to raise the limit upto Rs. 60,00,00,00,000. This Bill provides accordingly.

Dated the 12th August, 1991.

CHHABILDAS MEHTA.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 14th August, 1991.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] SATURDAY, AUGUST 17, 1991/SRAVANA 26, 1913

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

**THE BOMBAY LAND REQUISITION (GUJARAT AMENDMENT)
 BILL, 1991.**

GUJARAT BILL NO. 35 OF 1991.

A BILL

further to amend the Bombay Land Requisition Act, 1948.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Bombay Land Requisition (Gujarat Amendment) Act, 1991.

(2) It shall be deemed to have come into force on the 31st July, 1991.

Amendment
of section 9
of Bom.
XXXIII of
1948.

2. In the Bombay Land Requisition Act, 1948 (hereinafter referred to as "the principal Act"), in section 9, in sub-section (1A), for the words "eleven years", where they occur at two places, the words "thirteen years" shall be substituted.

Bom.
XXXIII
of 1948.

Repeal and
savings.

3. (1) The Bombay Land Requisition (Gujarat Amendment) Ordinance, 1991 is hereby repealed.

Guj.
Ord. 2
of 1991.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Bombay Land Requisition Act, 1948, which initially was for a temporary duration, has been placed permanently on the Statute Book and while doing so, the period for which the land could be requisitioned or continued under requisition under the Act has been laid down, under sub-section (1A) of section 9, as 11 years from the date of the commencement of the Bombay Land Requisition (Gujarat Amendment) Act, 1980 in respect of land requisitioned prior to such commencement and 11 years from the date of requisitioning of land in respect of land requisitioned after such commencement. The Amending Act of 1980 came into force on the 31st July, 1980. As the majority of premises were requisitioned under the Act before the commencement of the Amending Act of 1980, they would have been required to be released from requisition on or before the 31st July, 1991. However, before the premises were released from requisition, it would have been necessary to provide alternative accommodation to Government allottees. Although, conditions in respect of housing accommodation in the State have generally improved, shortage of accommodation, in some areas to which the Act extends, still continues. It would not have been possible for the Government to provide alternate accommodation to the Government allottees within the limited period available. It was, therefore, considered necessary to extend the maximum period for which the premises may be requisitioned or retained under requisition from 11 years to 13 years, i.e. for a further period of two years ending on the 31st July, 1993.

As the Gujarat Legislative Assembly was not in session, the Bombay Land Requisition (Gujarat Amendment) Ordinance, 1991, was promulgated to amend the Act to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

DINSHA PATEL.

FINANCIAL MEMORANDUM.

At present, under section 9(1A) of the Bombay Land Requisition Act, 1948, the maximum period for which the land could be requisitioned is eleven years from the commencement of the Bombay Land Requisition (Gujarat Amendment) Act, 1980, in the case of premises requisitioned before such commencement, and in the case of premises requisitioned after such commencement eleven years from the date on which possession of such premises is taken. By this Bill, the said maximum period is being raised from eleven years to thirteen years.

2. The compensation in respect of the requisitioned premises is recovered from the allottee and paid to the landlord under the relevant provisions of the Act. There is, therefore, no financial liability on the Government so far as the payment of compensation of requisitioned premises is concerned, irrespective of the period for which they are requisitioned. Similarly, the proposed amendment does not involve the question of appointing any extra staff.

Dated, the 16th August, 1991.

DINSHA PATEL.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 17th August, 1991.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXII]

MONDAY, AUGUST 19, 1991/SRAVANA 28, 1913

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 36 OF 1991.

A BILL

further to amend the Bombay Provincial Municipal Corporations Act, 1949.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1991.

Substitution of
section 8 of
Bom. LIX/
1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the principal Act"), for section 8, the following shall be substituted, namely:—

36-1

V-Extra-36-1

Bom.
LIX
of 1
1949.

"8. (1) (a) Every person whose name exists in an electoral roll of a constituency, pertaining to such area of the constituency as corresponds to an area of the City, and

Qualifications
of voters.

(b) every person whose name does not exist in an electoral roll of a constituency pertaining to such area of the constituency as corresponds to an area of the City and who is entitled to be registered in such roll

shall be entitled to be enrolled in a municipal election roll as a voter :

Provided that a person whose name is included in the electoral roll on account of his having service qualification shall not be so entitled to be enrolled in a municipal election roll.

(2) The part of an electoral roll which pertains to such area of a constituency as corresponds to an area of the City shall be the part of a municipal election roll for that area of the City so however that the municipal election roll shall be made up of electoral rolls of either whole or part of the constituencies of which the City is comprised:

Provided that, that part of the electoral roll of a constituency which relates to names of persons having service qualification shall not form part of the municipal election roll.

(3) (a) Where it appears to the Commissioner that having regard to the qualifying date in relation to which an electoral roll of a constituency falling within the City is prepared or revised, the municipal election roll which is based on the said electoral roll is required to be revised by reference to another qualifying date before general ward elections of councillors or ward election of a councillor, he may by an order in writing made in that behalf direct the municipal election roll to be revised either intensively or summarily or partly intensively and partly summarily.

43 of 1950.

(b) The municipal election roll shall be revised in accordance with sub-rules (2), (3) and (4) of rule 25 of the Registration of Electors Rules, 1960 and for that purpose the provisions of part III of the Representation of the People Act, 1950 and the said rules shall, so far as may be, apply subject to the modification that the powers conferred on the Election Commission, Chief Electoral Officer and Electoral Registration Officer shall be exercised by the Municipal Commissioner, the Deputy Municipal Commissioner and the Assistant Municipal Commissioner respectively.

Explanation .—For the purposes of this section—

43 of 1950.

(a) "electoral roll" means an electoral roll of a constituency prepared or revised in relation to a qualifying date and for the time being in force in accordance with the provisions of part III of the Representation of the People Act, 1950;

43 of 1950.

(b) "qualifying date" means qualifying date, as defined in clause (b) of section 14 of Representation of the People Act, 1950;

(c) "constituency" means an assembly constituency;

(d) "service qualification" means the service qualification specified in sub-section (8) of section 20 of the Representation of the People Act, 1950".

43 of 1950.

Amendment of section 10 of Bom. LIX of 1949.

3. In the principal Act, in section 10, in sub-section (1), for figures and word "13, 17 and 404", the figures and word "13 and 404" shall be substituted.

Deletion of section 17 of Bom. LIX of 1949.

4. In the principal Act, section 17 shall be deleted.

Amendment of Schedule A of Bom. LIX of 1949.

5. In the principal Act, in Schedule A, in Chapter-I,—

(1) rules 1 and 2 shall be deleted;

(2) in rule 3, for sub-rules (1) and (2), the following sub-rules shall be substituted, namely:—

"(1) The municipal election roll prepared in accordance with sub-section (2) of section 8 or revised in accordance with sub-section (3) of the said section 8 shall be printed and signed by the Commissioner and on being so signed shall come into operation and shall continue in operation for a period of five years from the date of such signature.

(2) The municipal election roll shall be divided and arranged into as many separate ward lists as the number of wards into which the City is divided. The separate ward lists, when completed, shall be called ward rolls and the ward rolls shall collectively be deemed to constitute the municipal election roll."

(3) rules 4, 5 and 6 shall be deleted.

STATEMENT OF OBJECTS AND REASONS

The existing provision of section 8 of the Bombay Provincial Municipal Corporations Act, 1949 which deals with qualifications of voters, provides that every person who has attained the age of 18 years on first day of January of the year for which the municipal election roll is being prepared shall be entitled to be enrolled in such roll as a voter of a ward and Chapter I of Schedule A to the Act makes provisions for the municipal election roll.

The voting right for the election to the House of the People and to the Legislative Assembly of every State was available to the voters who were not less than twenty-one years of age. By the Constitution (Sixty-first Amendment) Act, 1988, the Constitution of India has been amended with the result that voters who are not less than eighteen years of age have

become entitled to vote at such election. It is, therefore, not necessary now to prepare and maintain two separate rolls for the purpose of elections to Municipal Corporations and to the Legislative Assembly of the State. The electoral roll of a constituency prepared for election to the Legislative Assembly of the State is proposed to be adopted for elections to the Municipal Corporations also. For this purpose, it is considered necessary to substitute section 8 by a new section and to make consequential amendments in sections 10 and 17 of, and in Schedule A to, the Act. This Bill seeks to amend the said Act to achieve the aforesaid object.

Dated the 16th August, 1991.

NARHARI AMIN.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,

Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 19th August, 1991.

Government Central Press, Gandhinagar.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXII } FRIDAY, AUGUST 23, 1991/BHADRA 1, 1913

Separate paging is given to this Part in order that it
be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 37 OF 1991.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1991.

Short title
and commence-
ment.

(2) It shall be deemed to have come into force on the 1st April, 1991.

Bom. LXV
of 1958.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), in section 3A,—

Amendment
of section
3A of Bom.
LVX of
1958.

(1) in sub-section (1), in the Table, in entry 1, in column 2, for the figures "1800", the figures "1500" shall be substituted;

37-1

V-Extra-37-1

(2) in sub-section (2), for clause (b), the following clause shall be substituted, namely:—

“(b) The annual payment of tax or the payment of monthly instalment of tax shall be made within such period and in such manner as may be prescribed.”:

(3) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) (a) Where the registered owner or any person having possession or control of a designated omnibus who has paid tax under this section proves to the satisfaction of the Taxation Authority that the designated omnibus in respect of which the tax has been paid, has not been used or kept for use for a continuous period of not less than one month, he shall be entitled to the refund of an amount equal to one-twelfth of the annual rate of tax paid in respect of such omnibus for each complete month of the period for which the tax has been paid so however that, except as otherwise provided in clause (b) the total amount of a refund in a year shall not exceed—

(i) three hundred seventy-five rupees in the case of an ordinary designated omnibus.

(ii) six hundred seventy-five rupees in the case of a luxury or tourist designated omnibus :

Provided that for the purpose of determining the amount of refund under this clause, only such of the period in which a designated omnibus has not been used or kept for use shall be taken into account as comprises of complete months.

(b) Where a registered owner or a person having possession or control of a designated omnibus, who has paid tax under this section proves to the satisfaction of the State Government or such officer not below the rank of the Director of Transport, Gujarat State, as may by notification in the *Official Gazette*, be authorised in this behalf by the State Government that the designated omnibus in respect of which the tax has been paid has for reasons beyond the control of such owner or person not been used or kept for the use for a continuous period of not less than one month but exceeding three months in a year he shall be entitled to the refund of an amount equal to one-twelfth of the annual rate of the tax paid in respect of such omnibus for each complete month of the period of which the tax has been paid:

Provided that for the purpose of determining the amount of refund under this clause only such of the period in which a designated omnibus has not been used or kept for use shall be taken into account as comprises of complete months.”.

3. In the principal Act, in section 23, in sub-section (2),—

(1) for clause (a), the following clause shall be substituted, namely:—

“(a) to prescribe the manner of certifying under sub-section (2) of section 3”;

(2) in clause (b), for the words, brackets and figures “under sub-section (3) of section 3A”, the words, brackets and figures “under sub-section (2) and

(3) of section 3A” shall be substituted.

Amendment
of section 23
of Bom. LXV
of 1958.

STATEMENT OF OBJECTS AND REASONS

In view of the representation of tourist vehicles operators that the rate of tax levied under sub-section (1) of section 3A and the provision for refund of tax limited to a continuous period of not less than two months of non-use of the designated omnibus under sub-section (5) of the said section 3A causes hardship to them, it is proposed to amend the said section 3A so as to reduce the annual rate of tax levied on ordinary designated omnibuses from Rs. 1800/- to Rs. 1500/- and the said minimum period of two months of non-use to one month.

Having regard to the commercial use of omnibuses exclusively used as contract carriages in normal circumstances, it is generally uneconomic for the registered owners of such omnibuses to put such omnibuses to non-use for a very long time. Cases have come to the notice of the Government indicating that many a time such omnibuses which purported to have been put to non-use were operated clandestinely resulting in evasion of the tax and consequent loss of revenue to the Government. In order, therefore to prevent evasion of tax, it is considered necessary to make a provision to restrict the refund of the tax to a total period of three months of non-use in a financial year, in normal circumstances. However, in order to meet with the genuine cases where such an omnibus may have to be put to non-use for a period exceeding three months on account of reasons beyond the control of the registered owner, provision is made for refund of tax for non-use of the omnibus for a period exceeding three months. This Bill seeks to amend the said Act to achieve the aforesaid objects.

RAMSINH PARMAR.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :—

Clause 2.— Clause (b) of sub-section (2) of section 3A sought to be substituted by sub-clause (2) of this clause empowers the State Government to prescribe by rules the period within which and the manner in which the annual payment of tax or the payment of monthly instalment of tax shall be made;

(ii) clause (b) of sub-section (5) of section 3A sought to be substituted by sub-clause (3) of this clause empowers the State Government to authorise, by notification in the *official Gazette*, any officer not below the rank of the Director of Transport for the purpose of the said clause (b).

Clause 3.— Clause (a) of sub-section (2) of section 23 sought to be substituted by sub-clause (1) of this clause empowers the State Government to prescribe by rules the manner of certifying the vehicles under sub-section (2) of section 3.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar, dated the 21st August, 1991.

RAMSINH PARMAR.

By order and in the name of the Governor of Gujarat,

R. H. GORI,

Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 23rd August, 1991.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, SEPTEMBER 4, 1991/BEADRA 13, 1913

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rule :—

THE GUJARAT SALES TAX (SECOND AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 38 OF 1991.

A BILL

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Sales Tax (Second Amendment) Act, 1991.

Short title
and comm-
encement.

(2) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different provisions of this Act.

Amendment
of section
2 of Guj.
1 of 1970.

2. In the Gujarat Sales Tax Act, 1969 (herein fter referred to as "the principal Act"), in section 2, clause (30A) shall be deleted.

Guj. 1 of
1970.

Amendment
of section
17 of
Guj. 1 of
1970.

3. In the principal Act, in section 17,—

(1) in sub-section (1), the figures "18", where they occur at two places, shall be deleted ;

(2) in sub-section (2), the figures "18" shall be deleted.

Amendment
of section
26 of
Guj. 1 of
1970.

4. In the principal Act, in section 26, in sub-section (6), after the proviso, the following proviso shall be added, namely:—

"Provided further that the authority prescribed under section 29 may admit an application for registration made by a person referred to in clause (a) of sub-section (1) within twelve months after the expiry of thirty days, if such person satisfies such authority that he had sufficient cause for not making the application within the said period of thirty days and where such authority issues a certificate of registration to the applicant, such registration shall be deemed to have effect on and from the date of such succession."

Deletion of
section 28A
of Guj.
1 of 1970.

5. In the principal Act, section 28A shall be deleted.

Amendment
of section 30
of Guj. 1 of
1970.

6. In the principal Act, in section 30, in sub-section (1), for the figures "5000", the figures "25,000" shall be substituted.

Substitution
of section
31 of Guj.
1 of 1970.

7. In the principal Act, for section 31, the following section shall be substituted, namely:—

Licences.

"31. (1) Where, during the previous or current year,—

(a) the turnover of sales by a Registered dealer to other Registered dealers, or

(b) the turnover of sales of a Registered dealer, of goods which are exported by him from the State outside the territory of India, or

(c) the turnover of sales of a Registered dealer in the course of inter-State trade or commerce,

exceeds one lakh rupees and such a Registered dealer has been continuously holding a Certificate of Registration for a period of not less than twelve months immediately preceding the date of application for Licence, he may apply to the Commissioner for a Licence.

(2) If in respect of an application made by a dealer under sub-section (1), the dealer satisfies such further requirements, including the furnishing of adequate security, as may be prescribed, the Commissioner shall, subject to the provisions of section 34, issue to the dealer a Licence in such form and subject to such conditions as may be prescribed."

8. In the principal Act, after section 39, the following section shall be inserted, namely:—

“39A. Where—

(a) a Registered dealer is a firm and on the death of any partner of such firm, the firm stands dissolved, and

(b) the person who immediately before such dissolution was a partner of the firm carries on business of the dissolved firm, then—

(i) until the Certificate of Registration granted to the firm prior to its dissolution is amended under sub-clause (ii), the Certificate of Registration and Licence, Recognition or Permit, if any, granted to the firm prior to its dissolution and any certificate given under section 12 or 13, shall, subject to section 35, continue to be valid,

(ii) on an application made by such person for amendment of the Certificate of Registration and on information being furnished in the manner required by section 38, the Certificate of Registration, and Licence, Recognition or Permit, if any, granted to the firm prior to its dissolution shall be amended accordingly.”

9. In the principal Act, in section 41, to sub-section (3) the following provisos shall be added, namely:—

“Provided that where a notice under this sub-section is not issued to the dealer—

(a) on or before the 31st March 1992, in relation to any year commencing on any day before the 31st March 1990, or

(b) within a period of one year from the date by which the last quarterly or, as the case may be, annual return is required to be furnished under sub-section (1) of section 40, in relation to any other year subsequent to the year referred to in clause (a),

the dealer shall be deemed to have been assessed on the basis of and for the year for which quarterly returns or, as the case may be, annual return is furnished by the dealer;

Provided further that nothing in the preceding proviso shall apply—

(a) to a dealer whose turnover of purchases or turnover of specified sales or turnover of sales during a year exceeds five lakhs rupees or the tax payable in respect of that year exceeds five thousand rupees;

(b) to a dealer who has not made payment of the amount of tax within the time prescribed for its payment under sub-section (1), (2) or (3) of section 47;

(c) to a dealer who has not filed the return within the prescribed time;

Insertion of new section 39A in Guj. 1 of 1970.

Continuation of certificate of registration of dissolved firm in certain cases.

Amendment of section 41 of Guj. 1 of 1970.

(d) to a dealer who makes on or before the 31st March 1992, or, as the case may be, within a period of one year referred to in clause (b) in the preceding proviso, an application to the Commissioner for being assessed."

Amendment
of section
42 of Guj.
1 of 1970.

10. In the principal Act, in section 42, in sub-section (1),

(a) in the first proviso, for the words "stay either generally or for a specified period, the assessment proceedings of a dealer or class of dealers", the words, brackets and letters "extend, either generally or specially, the period specified in clause (a)" shall be substituted;

(b) for the second proviso, the following shall be substituted, namely:—

"Provided further that in computing the period of limitation for the purposes of this section, any period by which the period of limitation is extended under the first proviso or any period during which assessment proceedings are stayed by an order or injunction of any court or authority shall be excluded."

Amendment
of section 45
of Guj. 1 of
1970.

11. In the principal Act, in section 45,—

(1) in sub-section (5),—

(a) in clause (a), the figures "19" shall be deleted;

(b) for the words "twenty per cent.", the words "twenty-five per cent." shall be substituted;

(2) for sub-section (6), the following shall be substituted, namely:—

"(6) Where under sub-section (5), a dealer is deemed to have failed to pay the tax to the extent mentioned in the said sub-section, there shall be levied on such dealer a penalty not exceeding one and one-half times the difference referred to in sub-section (5)."

(3) after sub-section (10), the following sub-section shall be added, namely:—

"(11). This section as amended by section 11 of the Gujarat Sales Tax (Second Amendment) Act, 1991 shall apply and shall be deemed always to have applied in relation to the liability to pay tax on sale of goods, specified sales and purchases of goods, which have taken place during the period commencing on the 1st April, 1990 and ending immediately before the commencement of the said amending section."

Guj.
of
1991.

Amendment
of section 47
of Guj. 1 of
1970.

12. In the principal Act, in section 47,—

(1) in sub-section (4),—

(a) in clause (a), in sub-clause (ii), for the figures and words "19 or 50, and", the figures "50" shall be substituted;

(b) in clause (b), after the figures "46", the word "and" shall be added;

(c) after clause (b), the following clause shall be added, namely:—

"(c) the amount of interest, if any, under sub-section (4A).";

(2) for sub-section (4A), the following shall be substituted, namely:—

"(4A) (a) Where a dealer does not pay the amount of tax within the time prescribed for its payment under sub-section (1), (2) or (3), then there shall be paid by such dealer for the period commencing on the date of expiry of the aforesaid prescribed time and ending on date of payment of the amount of tax, simple interest at the rate of twenty-four per cent. per annum on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period.

(b) Where the amount of tax assessed or reassessed for any period under section 41 or section 44, subject to revision if any, under section-67, exceeds the amount of tax already paid by a dealer for that period, there shall be paid by such dealer, for the period commencing from the date of expiry of the time prescribed for payment of tax under sub-section (1), (2) or (3) and ending on the date of order of assessment, reassessment or, as the case may be, revision, simple interest at the rate of twenty-four per cent. per annum on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period.

(c) Where a dealer does not pay the amount of tax falling under sub-clause (ii) of clause (a) of sub-section (4), the amount of penalty falling under clause (b) of that sub-section and the amount of interest falling under clause (c) of that sub-section and specified in the notice issued under that sub-section on or before the date specified in such notice, then there shall be paid by such dealer for the period commencing on the specified date and ending on the date of payment, simple interest at the rate of twenty-four per cent. per annum on the amounts not so paid:

Provided that no interest shall be payable under clause (b),—

(i) in the case where dealer has furnished the returns or declarations in accordance with the provisions of sub-section (1) of section 40 and made payment of the amount of tax in accordance with the provisions of sub-section (1), (2) or (3) and the difference between the amount of tax assessed or reassessed for any period and the amount of tax so paid for such period does not exceed ten per cent. of the amount of tax so paid by the dealer;

(ii) in the case where the tax due from a dealer is assessed during the period extended under the first proviso to sub-section (1) of section 42, in respect of the period commencing on the date immediately after the expiry of the period specified in clause (a) of that sub-section and ending on the date of order of assessment;

(iii) in the case where any assessment is kept pending in accordance with a general or special order of the State Government or the Commissioner, in respect of the period for which the assessment is kept pending;

(iv) in the case where on account of an order passed under section 67 an additional amount of tax becomes payable by a dealer, on such additional amount of tax for the period commencing on the date of order of assessment and ending on the date of the order so passed."

(3) after sub-section (5), the following sub-section shall be added, namely:—

“(6) This section as amended by section 12 of the Gujarat Sales Tax (Second Amendment) Act, 1991 shall apply and shall be deemed always to have applied in relation to the liability to pay tax on sales of goods, specified sales and purchases of goods which have taken place during the period commencing on the 1st April, 1990 and ending immediately before the commencement of the said section.”

Guj.
of
1991.

Amendment
of section
55A of Guj.
1 of 1970.

13. In the principal Act, in section 55A, in sub-section (2), for the figures and word “13 and 51”, the figures and word “13, 51 and 55” shall be substituted.

Deletion of
Chapter VI:
A of Guj.
1 of 1970.

14. In the principal Act, Chapter VI A shall be deleted.

Amendment
of section 65
of Guj.
1 of 1970.

15. In the principal Act, in section 65, in sub-section (2), the words “at the option of the appellant either to the Commissioner or” shall be deleted.

Amendment
of section
66 of Guj.
1 of 1970.

16. In the principal Act, in section 66,—

(1) in sub-section (4), the word “or” shall be inserted at the end;

(2) after sub-section (4), the following sub-section shall be added, namely:—

“(5) an order of remission of taxes under section 55.”

Insertion of
new section
75A
in Guj. 1
of 1970.

17. In the principal Act, after section 75, the following section shall be inserted, namely:—

Publication of
information
respecting
dealers in
certain
cases.

“75A (1) Notwithstanding anything contained in sub-section (1) of section 76, if the Commissioner is of the opinion that it is necessary or expedient in the public interest to publish the names of dealers who have failed to pay the tax, penalty or interest, and any other particulars relating to any proceeding under this Act in respect of such dealer, he may, subject to any rules which may be made in this behalf, cause to be published such names and particulars in such manner as he thinks fit.

(2) No publication under this section shall be made in relation to any conviction for any offence connected with any provision under this Act until the time for filing an appeal under section 65 or, as the case may be, revision under section 67 has expired or the appeal or revision, if filed, has been disposed of.

Explanation.—In the case of a firm, company or other association of persons, the names of partners of the firm, directors, secretaries and treasurers or managers of the company or the members of the association, as the case may be, may also be published, if in the opinion of the Commissioner circumstances of the case justify it.”

Amendment
of section
84 of Guj.
1 of 1970.

18. In the principal Act, in section 84, the words “and of the Settlement Commission” shall be deleted.

STATEMENT OF OBJECTS AND REASONS

The State Government had appointed a Study Team in April, 1990 to review the provisions of the Gujarat Sales Tax Act, 1969 and the matters connected therewith for the purpose of simplification, rationalisation and improvement in the Act, Rules, procedures, etc. concerning the Sales Tax. The Study Team has presented its report to Government in October, 1990.

After careful consideration of the recommendations made by the Study Team, it is proposed to make certain amendments in the said Act.

The major amendments in this Bill relate to the following matters, namely:—

1. Interest on delayed payment of tax.
2. Deemed Assessment.
3. Publication of information respecting assesseees.
4. Voluntary Registration of Dealers.
5. Licences.
6. Partnership Firm.
7. Settlement Commission.

The following notes on clauses explain in brief the important provisions of the Bill:—

Clause 2.—This clause seeks to delete clause (30A) of section 2 of the Act.

Clause 3.—This clause seeks to amend section 17 with a view to doing away with the reference to section 18, which is repealed by the Gujarat Purchase Tax on Sugarcane Act, 1989.

Clause 4.—This clause seeks to amend section 26 with a view to permitting certain dealers to make an application for a Certificate of Registration within a period of twelve months after the expiry of thirty days prescribed therefor.

Clause 5.—This clause seeks to delete section 28A which provides for a Settlement Commission.

Clause 7.—This clause seeks to substitute section 31 which relates to licences.

Clause 8.—This clause seeks to insert a new section 39A with a view to continuing in certain circumstances a Certificate of Registration granted to a firm prior to its dissolution.

Clause 9.—This clause seeks to amend section 41 with a view to providing that where a notice is not served on the dealer, the dealer shall be deemed to have been assessed.

Clause 11.—This clause seeks to amend section 45 with a view to providing for levy of penalty not exceeding one and one-half times of the difference between the amount of tax payable and the amount of tax paid.

Clause 12.—This clause seeks to amend section 47 with a view to providing for levying of interest on the amount of tax not paid.

Clause 14.—This clause seeks to delete Chapter VIA relating to Settlement of Cases.

Clause 17.—This clause seeks to insert a new section 75A to provide for publication of information respecting dealers in certain cases.

CHHABILDAS MEHTA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects:—

Clause 1.—Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the provisions of the Act except section 1 shall come into force and also empowers the State Government to appoint different dates for different provisions of the Act.

Clause 7.—Sub-section (2) of section 31 as proposed to be substituted by this clause empowers the State Government to prescribe by rules further requirements including the furnishing of adequate security to be specified by the dealer in respect of an application for a licence made by him and also empowers the State Government to prescribe by rules the form in which and conditions subject to which a licence shall be issued by the Commissioner to the dealer.

Clause 17.—Sub-section (1) of section 75A proposed to be inserted by this clause empowers the State Government to make rules subject to which Commissioner may cause the names of dealers who have failed to pay tax, penalty or interest and any other particulars to be published.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 3rd September, 1991.

CHHABILDAS MEHTA.

By order and in the name of the Governor of Gujarat,

R. H. GORI,

Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 4th September, 1991.

Government Central Press, Gandhinagar.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, SEPTEMBER 5, 1991/BHADRA 14, 1913

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 5th September, 1991 by Shri Manohar Sinhji Jadeja M.L.A. is published under Rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

"Gujarat Bill No. 39 of 1991."

**THE GUJARAT LEGISLATIVE ASSEMBLY SECRETARIAT
 (RECRUITMENT AND CONDITIONS OF SERVICE) BILL, 1990.**

A BILL

*to regulate the recruitment and the conditions of service of persons
 appointed to the secretarial staff of the Gujarat Legislative
 Assembly and for matters connected therewith.*

It is hereby enacted in the Forty first Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Legislative Assembly Secretariat (Recruitment and Conditions of Service) Act, 1990.

(2) It shall come into force at once.

Short
title,
and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'Board' means a Board consisting of the Minister for Finance, the Minister for Parliamentary Affairs, Leader of the Opposition and the Chairman of the Estimates Committee;

(b) 'Chief Minister' means Chief Minister of the State of Gujarat or any other Minister acting as Chief Minister.

(c) 'Constitution' means Constitution of India.

(d) 'Officer' means a person appointed to, or borne on the cadre of the secretariat staff of the Gujarat Legislative Assembly;

(e) 'Post' means a post in the Secretariat;

(f) 'Prescribed' means prescribed by rules made under this Act;

(g) 'Secretary' means the Secretary of the Gujarat Legislative Assembly;

(h) 'Secretariat' means the Gujarat Legislature Secretariat;

(i) 'Speaker' means the Speaker of the Gujarat Legislative Assembly; and

(j) 'State Government' means the Government of Gujarat.

Separate
and
independent
Secretariat.

3. (1) For the purpose of Article 187 there shall be a separate Secretariat for the Gujarat Legislative Assembly known as Gujarat Legislature Secretariat and the services thereunder shall be known as Legislative Services.

Strength
and
composition
of the
Secretariat.

4. There shall be in the Secretariat:—

(a) such categories of posts and such number of posts in each category as exists at the commencement of this Act; and

(b) such additional posts in the categories referred to in clause (a) and such additional categories and number of posts therein, as the Speaker may from time to time sanction;—

Method of
recruitment.

5. (1) Recruitment to a post or class of posts may be made by any one of the following methods, namely:—

(a) by promotion from among the officers in the Secretariat.

(b) by transfer of a person or persons serving outside the Secretariat in connection with the affairs of the State of Gujarat or of any other State or of the Union;

(c) by direct recruitment;

(2) The Speaker may, by rule, from time to time.

(a) specify the method or methods by which a post or class of posts may be filled;

(b) determine the proportion of vacancies to be filled by each method; and

(c) in case of recruitment by promotion, specify the class of officers who, and the conditions subject to which they, shall be eligible for such promotion.

6. The qualifications for recruitment to any post or class of posts shall be such as may be prescribed.

Qualification
for
recruitment.

7. Subject to the authority of the Speaker and the provisions contained in the rules the Secretary shall exercise superintendence and control over the staff and administration of the Secretariat.

Adminis-
trative
control.

8. Appointment to the gazetted posts shall be made by the speaker and to the other posts shall be made by the Secretary.

Appointing
Authority.

9. Every person appointed to a permanent post by direct recruitment, with a view to his eventual substantive appointment to that post, shall be on probation for a period of two years;

Probation.

Provided that the Speaker or the Secretary or any other officer to whom power is delegated under section 7 may, by order, extend or reduce the period of probation upto one year in the case of any person appointed by him or any officer subordinate to him to any post specified in such order.

10. (1) The payscales, pensions, allowances and other conditions of service of the officers and staff of the Legislative services shall be such as may be fixed by the Speaker on the recommendations of the Board.

Pay
and other
conditions
of service.

(2) Provided that the payscales, pensions, allowances and other conditions of services of the officers and members of the staff of the legislative services shall not be lower than or inferior to those admissible or applicable, as the case may be, to the officers in the corresponding posts in the Secretariat of the State Government.

(3) Until the payscales, pension, etc. are fixed under sub section (1) the payscales, pensions, allowances and other conditions of service of the officers and staff of the Legislative service shall continue to be governed by the rules or orders as in force at the commencement of this Act.

(4) In all matters regulating the conditions of service of the officers of the Secretariat for which no provision or insufficient provision has been made in the rules made under this Act, the officers shall be governed by such rules as are applicable to the officers in the corresponding posts in the Secretariat of the State Government, subject to such modifications, variations or exceptions in such rules as the Speaker may, by order, from time to time specify.

Explanation.—For the purpose of this section if any question arises as to which post in the Secretariat of the State Government corresponds to which particular post in the Secretariat, the decision of the Speaker shall be final.

Penalties.

11. The following penalties may, for good and sufficient reasons, be imposed on an officer, namely:—

- (i) censure;
- (ii) withholding of increments or promotion;
- (iii) recovery from pay of the whole or part of any pecuniary loss caused to the State by negligence or breach of order;
- (iv) reduction to a lower grade or post or to a lower timescale or to a lower stage in a time scale;
- (v) compulsory retirement;
- (vi) removal from service in the Secretariat which shall not be a disqualification for future employment under the Secretariat or the Government;
- (vii) dismissal from service in the Secretariat which shall ordinarily be a disqualification for future employment under the Secretariat or the Government.

Explanation.—The following shall not amount to a penalty within the meaning of this section:

- (i) withholding of increments of an officer for failure to pass a departmental examination in accordance with the rules or orders governing the post or the terms of his appointment.
- (ii) stoppage of an officer at the efficiency bar in the time-scale on the ground of his unfitness to cross the bar;
- (iii) non-promotion whether in substantive or officiating capacity of an officer, after consideration of his case, to a grade or post for promotion to which he is eligible;
- (iv) reversion to a lower grade or post of an officer officiating in a higher grade or post on the ground that he is considered, after trial, to be unsuitable for such higher grade or post or on administrative grounds unconnected with his conduct;
- (v) reversion to his permanent grade or post of an officer appointed on probation to another grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing probation;

(vi) compulsory retirement of an officer in accordance with the provisions relating to his superannuation or retirement ;

(vii) termination of the services—

(a) of an officer appointed on probation during or at the end of the period of probation, in accordance with the terms of his appointment or the rules and orders governing probation; or

(b) of a temporary officer in accordance with the rules applicable to him; or

(c) of an officer employed under an agreement, in accordance with the terms of such agreement.

12. Subject to the provisions of article 311 of the Constitution, the Speaker, shall have the power to impose any of the penalties specified in section 11 on any officer :

Punishing
authority.

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer the power to impose any of the said penalties on any officer other than an officer of Class I.

97 of
1950

13. Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1950, no order imposing on an officer any of the penalties specified in clauses (iv) to (vi) of section 11 shall be passed except after an inquiry held, as far as may be, in such manner as may be prescribed.

Procedure
before
Punishment

14. If having regard to the nature of the charges and the circumstances in any case, the punishing authority referred to in section 12, which initiates any disciplinary proceedings is satisfied that it is necessary or desirable to place under suspension the officer against whom such proceeding is contemplated or is pending, the said authority may pass an order placing him under suspension, or take such action with regard to his suspension as may be prescribed :

Suspension
during
inquiry.

Provided that an officer shall not be placed under suspension for more than six months and inquiry against him shall be completed within six months in all respects.

15. (1) Every officer shall have a right to appeal to the Speaker against any order passed originally or on appeal by the Secretary imposing or confirming any penalty specified in section 11 :

Appeal.

Provided that where an order is passed originally by any authority subordinate to the Secretary, an appeal against such order shall first lie to the Secretary.

(2) The orders of the Speaker, whether passed originally or on appeal, shall be final:

Provided that the Speaker may, of his own motion or on application, revise or rescind any order passed by him under this section.

(3) The period within which an appeal may be submitted, the authority to which an appeal against an order of suspension may be submitted and all matters incidental thereto shall be such as may be prescribed.

Budget
Estimates.

16. (1) The budget estimates of the Secretariat shall be prepared by the Secretariat and sent to the Finance Department which shall normally accept the estimates without any change.

(2) In case, the Finance Department is unable to accept any of the proposals contained in the budget estimates and the matter cannot be resolved, between the Secretariat and the Finance Department, it shall be placed before a meeting between the Speaker and the Minister of Finance.

(3) If the matter still remains unresolved, it shall be placed before a meeting of the Chief Minister, the Speaker and the Minister of Finance and the decision arrived at such meeting shall be final.

Financial
Powers.

17. The Speaker shall have full financial powers in respect of the Secretariat within the budget grants of the Secretariat:

Provided that the Speaker may, by general or special order, delegate to the Secretary or any other officer any of his powers in this regard:

Provided further that such financial powers as are vested in a Secretary to the State Government shall be deemed to have been delegated by the Speaker to the Secretary in respect of the Secretariat.

Authenti-
cation of
orders and
issue of
Financial
sanctions.

18. (1) Orders of the Governor or Speaker relating to the Gujarat Legislative Assembly and orders of the Speaker relating to the Secretariat may, if necessary be authenticated by the Secretary and issued or published by him in such manner as the Speaker may, by general or special order, from time to time specify.

(2) All financial sanctions relating to the Secretariat shall be issued by the Secretary or by any other officer of the Secretariat to whom any such power is delegated by him.

Correspon-
dence
with State
Government
etc.:

19. All correspondence with the Department of the State Government and other outside authorities shall be carried on by the Secretary or other officers with the concerned Departments or authorities directly.

Power to
make
rules.

20. (1) The Speaker may, by notification in the *Official Gazette* make rules to carry out the purposes of this Act.

(2) The Speaker may, if he so considers necessary, appoint a Committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under this Act.

Residuary
Powers

21. Subject to the provisions of section all matters not specifically provided for in this Act, whether incidental or ancillary to the provisions of this Act or otherwise, shall be regulated in accordance with such orders as the Speaker may, from time to time make.

Interpre-
tation.

22. All questions relating to the interpretation of the provisions of this Act and the rules made thereunder shall be referred to the Speaker whose decision thereon shall be final.

23. Save as otherwise expressly provided in this Act, all rules corresponding to the provisions of this Act, and in force immediately before the commencement of this Act, are hereby repealed :

Repeal
and
saving.

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS.

Article 187 of the Constitution provides that the House of the Legislature shall have a separate secretarial staff. This Article authorises the State Legislatures to make law for regulating the recruitment and conditions of service of persons appointed to the secretarial staff of the House. Clause (3) of that article also provides that until any law is made by the State Legislature, the matters may be regulated by rules to be made by the Governor after consultation with the Speaker of the House. Such a provision in clause (3) seems to have been made with a view to ensure immediate functioning of the house of different State Legislatures. Thus the provision of clause (3) of Article 187 appears to be transitory. The rules made under this clause have, however been continued for a long time. The present set of rules made in pursuance of Article 187(3) of the Constitution might have served the purpose in the past, but now the House is experiencing many difficulties. The Honourable the Speaker has to approach the executive for sanctioning of a new post even of a peon and even for small financial expenditure. The House and its committee cannot function effectively and efficiently and cannot ensure accountability of the executive as envisaged under Article 164 (2), unless it has an independent Secretariat. Independence includes financial independence also. Under the present circumstances, the House may not feel it necessary to grant full financial freedom to the Legislature Secretariat. It may however, be given maximum latitude in financial matters and in sanctioning of certain posts in the Legislature Secretariat so that effective functioning of the House may not be hampered.

The legislature secretariat is meant for the services of the House and its Committees and is supposed to be impartial and independent of the Executive. The rules made under Article 187 of the Constitution by the Government do not provide for independent secretariat as the rules are made by the Government. At present the Legislature Secretariat is under the control of the Executive as final decision with regard to the appointment and conditions of service of the legislative staff and creation of new posts are taken by the Government. From such Legislature Secretariat one cannot expect impartiality. In Lok Sabha, in Kerala and in some other states rules regarding recruitment and conditions of service of Legislature Secretariat are in consonance with the spirit of Article 187 of the Constitution. In Gujarat the position is very different. Our former Speakers Shri Viththalbhai Patel and Shri G. V. Mavlankar have emphasised the need for an independent Secretariat.

The Bill seeks to achieve the above objective.

Dated the 1st September, 1990.
Gandhinagar

(Signed)
MANOHAR SINHJI JADEJA
M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (b) of clause 4 empowers the Speaker to sanction posts and categories in addition to those referred in clause (a):

Sub-clause (2) of clause 5 empowers the Speaker to make rules for specifying methods for filling posts, determining proportion of vacancies to be filled and to specify the class of officers and conditions for promotion.

Clause 6 empowers the Speaker to make rules for prescribing qualifications for recruitment.

The proviso to clause (9) empowers the Speaker to extend or reduce period of probation upto one year.

Sub-clause (4) of clause (10) empowers the Speaker to specify modifications, variations or exceptions subject to which the officers of the Secretariat shall, be governed in case of non-provision or insufficient provision made in the rules made under the said Act.

Clause 12 of the Bill empowers the Speaker to impose on any officer any of the penalties specified in clause 11.

Clause 13 empowers the Speaker to prescribe manner for holding inquiry before imposing any penalty on an officer.

Clause 14 empowers the punishing authority to pass an order of suspension or prescribe action to be taken with regard to his suspension.

The proviso to sub-clause (2) of clause 15 empowers the Speaker to revise or rescind any order passed by him under the clause.

Sub-clause (3) of clause 15 empowers the Speaker to prescribe the period within which and the authority to which an appeal against the order of the suspension may be submitted and to prescribe all matters incidental thereto.

Sub-clause (1) of clause 18 empowers the Speaker to specify the manner for authentication and issuance of orders of the Governor or the speaker by the Secretary.

Sub-clause (1) of clause 20 empowers the Speaker to make rules for carrying out the purposes of the Act.

Sub-clause (2) of clause 20 empowers the Speaker to appoint a committee of the Gujarat Legislative Assembly to advise him in regard to the rules to be made under the Act.

Clause 21 empowers the Speaker to make orders in respect of matters incidental or ancillary and for all matters not specifically provided for in the Act.

The delegation of Legislative powers as aforesaid is necessary and of the normal character.

Dated the 1st September, 1990.

Gandhinagar.

(Signed)

MANOHAR SINHJI JADEJA"

M. L. A.

Gandhinagar.

Dated the 5th September, 1991.

P. N. THAKKER,

Secretary,

Gujarat Legislative Assembly.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXII] FRIDAY, SEPTEMBER 6, 1991/BHADRA 15, 1913

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 6th September, 1991 by Shri Karsandas Soneri, Minister for Education, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"THE GUJARAT AFFILIATED COLLEGES AND UNIVERSITIES SERVICES TRIBUNALS LAWS (AMENDMENT) BILL, 1991.

GUJARAT BILL NO. 40-OF 1991.

A BILL

to amend the Gujarat Affiliated Colleges Services Tribunal Act, 1982 and the Gujarat Universities services Tribunal Act, 1983.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Affiliated Colleges and Universities Services Tribunals Laws (Amendment) Act, 1991.

Short title.

Guj 2 of 1992.

2. In the Gujarat Affiliated Colleges Services Tribunal Act, 1982, in section 2, in clause (i),—

Amendment of section 2 of (Guj 2 of 1992.)

(1) the words "or, as the case may be," shall be deleted;

(2) the following shall be added at the end, namely:—

“or, as the case may be, the North Gujarat University Act, 1986”.

Guj. 22 of
1986.

Amendment
of Guj.
1 of 1988.

3. In the Gujarat Universities Services Tribunal Act, 1983,—

Guj. 1 of
1988.

(1) in section 2, in clause (e),—

(a) the words “or, as the case may be,” shall be deleted;

(b) the following shall be added at the end, namely:—

“or, as the case may be, the North Gujarat University Act, 1986”;

Guj. 22 of
1986.

(2) in the Schedule, the following new entry shall be added at the end, namely:—

“6. The North Gujarat University Act, 1986 (Guj. 22 of 1986).

(1) Section 68 shall be deleted.

(2) In section 69, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matter decided by the Tribunal. Every request made under sub-section (1) shall be deemed to be submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940 and the provisions of that Act shall apply accordingly.”.

X of
1940.

STATEMENT OF OBJECTS AND REASONS

The North Gujarat University Act, 1986 does not contain any provision for determining the disputes relating to conditions of service of the staff of the colleges affiliated to the North Gujarat University. The provisions of the Gujarat Affiliated Colleges Services Tribunal Act, 1982 also do not apply to the colleges affiliated to the North Gujarat University. With a view to bringing such disputes within the jurisdiction of the Gujarat Affiliated Colleges Services Tribunal constituted under the Gujarat Affiliated Colleges Services Tribunal Act, it is considered necessary to include the North Gujarat University Act in the definition of 'relevant University Act' by amending clause (i) of section 2 of the Gujarat Affiliated Colleges Services Tribunal Act.

At present, disputes arising out of a contract between the North Gujarat University and its staff are required to be referred to a Tribunal of Arbitration under section 68 of the North Gujarat University Act. With a view to bringing such disputes within the jurisdiction of the Gujarat Universities Services Tribunal constituted under the Gujarat Universities Services Tribunal Act, 1983 it is considered necessary to include the North Gujarat University Act in the definition of 'relevant University Act' by amending clause (e) of section 2 of the Gujarat Universities Services Tribunal Act. It is also considered necessary to amend the Schedule to the Gujarat Universities Services Tribunal Act to provide for deletion of section 68, and substitution of sub-section (2) of section 69, of the North Gujarat University Act.

This Bill seeks to amend the Gujarat Affiliated Colleges Services Tribunal Act and the Gujarat Universities Services Tribunal Act to achieve aforesaid objects.

Dated the 13 August, 1991.

KARSANDAS SONERI,"

Gandhinagar,

Dated the 6th September, 1991.

P. N. THAKKER,

Secretary,

Gujarat Legislative Assembly.